

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:11-27816 Raymond Delgado Aguirre, Jr.

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOC
vs
DEBTOR

Docket 53

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Raymond Delgado Aguirre Jr.

Represented By
Andrew Edward Smyth
William J Smyth

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

CONT... Raymond Delgado Aguirre, Jr.

Chapter 13

Movant(s):

U.S. Bank National Association

Represented By
Leslie M Klott
Craig A Edelman
Mark D Estle

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:12-11058 Baltazar Hernandez and Patricia Hernandez

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK TRUST COMPANY
vs
DEBTOR

Docket 60

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Baltazar Hernandez

Represented By
Rebecca Tomilowitz
Rebecca Tomilowitz

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

CONT... Baltazar Hernandez and Patricia Hernandez

Chapter 13

Joint Debtor(s):

Patricia Hernandez

Represented By
Rebecca Tomilowitz

Movant(s):

Deutsche Bank Trust Company

Represented By
Asya Landa

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:13-37143 James Carthon, III

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

HSBC BANK USA
vs
DEBTOR

Docket 41

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Notices. Grant the request to be excused from the notice requirements of FRBP 3002.1(b) & (c).

(3) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

James Carthon III

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

CONT... James Carthon, III

Chapter 13

James D Zhou

Movant(s):

HSBC Bank USA, National

Represented By
Brandy N Foreman

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:13-39098 Michelle Rose Rodriguez

Chapter 13

#4.00 [CASE DISMISSED ON 8/31/16]

Hrg re: Motion for relief from stay [RP]

WELL FARGO BANK
vs
DEBTOR

Docket 39

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) There is no stay, due to dismissal. See 11 USC 349(b)(3) & 362(c). Termination of the stay is also addressed below because in rare instances dismissals are vacated.

(2) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(3) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

**United States Bankruptcy Court
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10:00 AM

CONT... Michelle Rose Rodriguez

Chapter 13

Debtor(s):

Michelle Rose Rodriguez

Represented By

Sara E Razavi

Sara E Razavi

Sara E Razavi

S Renee Sawyer Blume

S Renee Sawyer Blume

S Renee Sawyer Blume

Movant(s):

WELLS FARGO BANK, NA

Represented By

Mark D Estle

Patricia Livingston

Corey Phuse

Teosa L Peterson

Rosemary Allen

Brandy N Foreman

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:14-12858 Fernando Cervantez Robles and Linda Jo Robles

Chapter 13

#5.00 Hrg re: Motion for relief from stay [RP]

HSBC BANK USA,
vs
DEBTOR

Docket 31

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 33).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Fernando Cervantez Robles

Represented By
Barry E Borowitz
Barry E Borowitz

Joint Debtor(s):

Linda Jo Robles

Represented By
Barry E Borowitz
Barry E Borowitz
Barry E Borowitz
Barry E Borowitz

Movant(s):

HSBC Bank USA, National

Represented By
Robert P Zahradka

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

10:00 AM

CONT... Fernando Cervantez Robles and Linda Jo Robles

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:14-14412 Armando Arzate Aviles

Chapter 13

#6.00 Hrg re: Motion for relief from stay [RP]

JP MORGAN CHASE BANK
vs
DEBTOR

Docket 93

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 96).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Armando Arzate Aviles

Represented By
Caroline S Kim
Caroline S Kim

Movant(s):

JPMorgan Chase Bank, National

Represented By
Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:14-24101 Leona Moorer

Chapter 13

#7.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST COMPANY
vs
DEBTOR

Docket 67

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address Debtor's response to the Motion for Relief From the Automatic Stay, and particularly the status of Debtor's Loan Modification Application (see the debtor's response, dkt. 69).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Leona Moorer

Represented By
Anthony Obehi Egbase
Crystle J Lindsey

Movant(s):

Deutsche Bank National Trust

Represented By
Erin M McCartney

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:14-28526 Sidronio Lagunas and Rosa Elvira Lagunas

Chapter 13

#8.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 37

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Sidronio Lagunas

Represented By
Alla Tenina

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

CONT... Sidronio Lagunas and Rosa Elvira Lagunas

Chapter 13

Joint Debtor(s):

Rosa Elvira Lagunas

Represented By
Alla Tenina

Movant(s):

Deutsche Bank National Trust

Represented By
James F Lewin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:14-28966 Frank Michael Campis, III

Chapter 13

#9.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 20

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Frank Michael Campis III

Represented By
Joshua L Sternberg

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, September 06, 2016

Hearing Room 1545

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CONT... Frank Michael Campis, III

Chapter 13

Movant(s):

Deutsche Bank National Trust

Represented By
James F Lewin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:15-11719 Salvador Valdivia

Chapter 13

#10.00 Hrg re: Motion for relief from stay [RP]

CITIBANK, NA
vs
DEBTOR

Docket 22

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this court's final ruling. See LBR 9021-1(b)(1)(B).

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Retroactive relief. Grant the request for retroactive annulment of the stay.

(3) Relief applicable to future bankruptcy cases ("in rem" relief).

If this order is duly recorded in compliance with any applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case. For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed.

Such relief is granted on the following alternative grounds: (a) under 11

**United States Bankruptcy Court
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Tuesday, September 06, 2016

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CONT... Salvador Valdivia

Chapter 13

U.S.C. 362(d)(4) if the movant is either (i) the holder of a deed of trust/mortgage secured by real property that is the subject of the motion, (ii) the purchaser of such property at a foreclosure sale, or (iii) a successor in interest who stands in the shoes of such persons; (b) under the court's authority to grant appropriate relief under 11 U.S.C. 105(a) and 362(d) (regardless whether the movant is a "creditor" or whether real property or personal property is at issue); and (c) under the court's inherent authority combined with 11 U.S.C. 362(d) (same). *See generally In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31) (distinguishing *In re Ellis*, 523 B.R. 673 (9th Cir. BAP 2014), and explaining alternative grounds for "in rem" relief).

(4) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

(5) Evidence. This court notes that the declaration attached to the motion is incomplete and/or contains changes to the mandatory form (which are hereby treated as a request to amend the form per LBR 9009-1). This court makes no determination whether such omissions/changes would withstand an evidentiary objection. Nevertheless, this court has considered the key documents because (a) there are no evidentiary objections and/or (b) those documents appear to be admissible on other grounds. In future the movant's failure to complete the form properly may result in denial of the motion sua sponte.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Salvador Valdivia

Pro Se

Movant(s):

Citibank, N.A., as Trustee, in trust

Represented By
Caren J Castle

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

CONT... Salvador Valdivia

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:15-15404 India J Macatee

Chapter 11

#11.00 Hrg re: Motion for relief from stay [RP]

MICHAEL & JANET BRISSON
vs
DEBTOR

Docket 178

***** VACATED *** REASON: This court has issued its order approving
the parties' adequate protection**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

India J Macatee

Represented By

Kevin T Simon

Kevin T Simon

Kevin T Simon

S Renee Sawyer Blume

S Renee Sawyer Blume

S Renee Sawyer Blume

M Jonathan Hayes

M Jonathan Hayes

M Jonathan Hayes

Movant(s):

Michael & Janet Brisson

Represented By

Coby R Halavais

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:15-18567 Joshua Eli Carrasco and Olivia Ortega-Carrasco

Chapter 13

#12.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK TRUST, N.A.
vs
DEBTOR

Docket 32

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Joshua Eli Carrasco

Represented By
Glenn Ward Calsada

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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10:00 AM

CONT... Joshua Eli Carrasco and Olivia Ortega-Carrasco

Chapter 13

Joint Debtor(s):

Olivia Ortega-Carrasco

Represented By
Glenn Ward Calsada
Glenn Ward Calsada
Glenn Ward Calsada

Movant(s):

U.S. Bank Trust, N.A., as Trustee

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:15-19169 Lakanda Monique Horn

Chapter 13

#13.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 49

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Lakanda Monique Horn

Represented By
Kahlil J McAlpin

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

CONT... Lakanda Monique Horn

Chapter 13

Movant(s):

Deutsche Bank National Trust

Represented By
Leslie M Klott
April Harriott
James F Lewin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:15-19246 EJ Hawkins

Chapter 13

#14.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK, NA
vs
DEBTOR

Docket 49

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

EJ Hawkins

Represented By
S Renee Sawyer Blume

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

10:00 AM

CONT... EJ Hawkins

Chapter 13

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Marisol A Nagata
Tara Evans
Erin Holliday
Erica T Loftis

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:15-21069 Joyce Annette Aguebor

Chapter 13

#15.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NA
vs
DEBTOR

Docket 71

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Joyce Annette Aguebor

Pro Se

Movant(s):

U.S. Bank N.A. as Trustee

Represented By

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Central District of California
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10:00 AM

CONT... Joyce Annette Aguebor

Brandye N Foreman

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:15-23236 Rita Hart Claggett

Chapter 13

#16.00 Hrg re: Motion for relief from stay [RP]

BANK OF AMERICA
vs
DEBTOR

Docket 31

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

(3) Evidence. This court notes that the declaration attached to the motion is incomplete and/or contains changes to the mandatory form (which are hereby treated as a request to amend the form per LBR 9009-1). This court makes no determination whether such omissions/changes would withstand an evidentiary objection. Nevertheless, this court has considered the key documents because (a) there are no evidentiary objections and/or (b) those documents appear to be admissible on other grounds. In future the movant's failure to complete the form properly may result in denial of the motion sua sponte.

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

CONT... Rita Hart Claggett

Chapter 13

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Rita Hart Claggett

Represented By
Kevin T Simon

Movant(s):

BANK OF AMERICA, N.A.

Represented By
Merdaud Jafarnia
Marlene Brookman

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:15-23281 Gerald L MEYER and Victoria A MEYER

Chapter 13

#17.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK, NA
vs
DEBTOR

Docket 22

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 24).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Gerald L MEYER

Represented By
R Grace Rodriguez
R Grace Rodriguez

Joint Debtor(s):

Victoria A MEYER

Represented By
R Grace Rodriguez

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Brandye N Foreman

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:15-25545 James B Williams

Chapter 13

#18.00 Hrg re: Motion for relief from stay [RP]

THE BANK OF NEW YORK MELLON
vs
DEBTOR

Docket 119

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

Key documents reviewed (in addition to motion papers): Dkt 121,
"Supplemental Declaration in Support of Motion for Relief from Automatic Stay With Annulment."

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). **To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. But see *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).**

(2) Retroactive relief. Grant the request for retroactive annulment of the stay.

(3) Relief applicable to *future* bankruptcy cases ("in rem" relief).

If this order is duly recorded in compliance with any applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case. For the avoidance of doubt, any acts by the movant to obtain exclusive

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

CONT...

James B Williams

Chapter 13

possession of such property shall not be stayed.

Such relief is granted on the following alternative grounds: (a) under 11 U.S.C. 362(d)(4) if the movant is either (i) the holder of a deed of trust/mortgage secured by real property that is the subject of the motion, (ii) the purchaser of such property at a foreclosure sale, or (iii) a successor in interest who stands in the shoes of such persons; (b) under the court's authority to grant appropriate relief under 11 U.S.C. 105(a) and 362(d) (regardless whether the movant is a "creditor" or whether real property or personal property is at issue); and (c) under the court's inherent authority combined with 11 U.S.C. 362(d) (same). *See generally In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31) (distinguishing *In re Ellis*, 523 B.R. 673 (9th Cir. BAP 2014), and explaining alternative grounds for "in rem" relief).

(4) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

James B Williams

Represented By
Claudia L Phillips
Claudia L Phillips

Movant(s):

THE BANK OF NEW YORK

Represented By
Erin M McCartney

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:15-28721 George Arriaga

Chapter 13

#19.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK NA
vs
DEBTOR

Docket 35

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

George Arriaga

Represented By
Luis G Torres

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

CONT... George Arriaga

Chapter 13

Movant(s):

Wells Fargo Bank NA

Represented By
Erica T Loftis

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:16-11443 Maria Guadalupe Pena

Chapter 13

#20.00 Hrg re: Motion for relief from stay [RP]

BANC OF CALIFORNIA, NATIONAL ASSOC
vs
DEBTOR

Docket 46

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Maria Guadalupe Pena

Represented By
Sylvia Lew

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

CONT... Maria Guadalupe Pena

Chapter 13

Movant(s):

Banc of California, National

Represented By

Brett P Ryan

Jason A Savlov

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:16-11823 Lydia Antonia Mojica Fernandez

Chapter 13

#21.00 Hrg re: Motion for relief from stay [RP]

HSBC BANK USA
vs
DEBTOR

Docket 22

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Relief applicable to future bankruptcy cases ("in rem" relief).

If this order is duly recorded in compliance with any applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case. For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed.

Such relief is granted on the following alternative grounds: (a) under 11 U.S.C. 362(d)(4) if the movant is either (i) the holder of a deed of trust/mortgage secured by real property that is the subject of the motion, (ii) the purchaser of such property at a foreclosure sale, or (iii) a successor in interest who stands in the shoes of such persons; (b) under the court's

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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CONT... Lydia Antonia Mojica Fernandez

Chapter 13

authority to grant appropriate relief under 11 U.S.C. 105(a) and 362(d) (regardless whether the movant is a "creditor" or whether real property or personal property is at issue); and (c) under the court's inherent authority combined with 11 U.S.C. 362(d) (same). See generally *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31) (distinguishing *In re Ellis*, 523 B.R. 673 (9th Cir. BAP 2014), and explaining alternative grounds for "in rem" relief).

(3) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Lydia Antonia Mojica Fernandez

Represented By
Matthew D Resnik

Movant(s):

HSBC Bank USA, National

Represented By
Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:16-12330 Rosa Zamora

Chapter 13

#22.00 [CASE DISMISSED ON 8/10/16]

Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOC
vs
DEBTOR

Docket 21

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) There is no stay, due to dismissal. See 11 USC 349(b)(3) & 362(c). Termination of the stay is also addressed below because in rare instances dismissals are vacated.

(2) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(3) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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10:00 AM

CONT... Rosa Zamora

Chapter 13

Debtor(s):

Rosa Zamora

Represented By
Luis G Torres
Luis G Torres
Luis G Torres
Luis G Torres

Movant(s):

U.S. Bank National Association as

Represented By
Christina J O

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:16-12915 Markecia E Sago

Chapter 13

#23.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK, NA
vs
DEBTOR

Docket 31

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Markecia E Sago

Pro Se

Movant(s):

WELLS FARGO BANK, N.A.

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

CONT... Markecia E Sago

Robert P Zahradka

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:16-13903 Javier Maldonado

Chapter 7

#24.00 [CASE DISMISSED ON 8/3/16]

Hrg re: Motion for relief from stay [RP]

JAMES B. NUTTER & COMPANY
VS
DEBTOR

Docket 37

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) There is no stay, due to dismissal. See 11 USC 349(b)(3) & 362(c). Termination of the stay is also addressed below because in rare instances dismissals are vacated.

(2) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(3) Relief applicable to future bankruptcy cases ("in rem" relief).

If this order is duly recorded in compliance with any applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case. For the avoidance of doubt, any acts by the movant to obtain exclusive

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, September 06, 2016

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10:00 AM

CONT...

Javier Maldonado

Chapter 7

possession of such property shall not be stayed.

Such relief is granted on the following alternative grounds: (a) under 11 U.S.C. 362(d)(4) if the movant is either (i) the holder of a deed of trust/mortgage secured by real property that is the subject of the motion, (ii) the purchaser of such property at a foreclosure sale, or (iii) a successor in interest who stands in the shoes of such persons; (b) under the court's authority to grant appropriate relief under 11 U.S.C. 105(a) and 362(d) (regardless whether the movant is a "creditor" or whether real property or personal property is at issue); and (c) under the court's inherent authority combined with 11 U.S.C. 362(d) (same). *See generally In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31) (distinguishing *In re Ellis*, 523 B.R. 673 (9th Cir. BAP 2014), and explaining alternative grounds for "in rem" relief).

(4) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Javier Maldonado

Pro Se

Movant(s):

James B. Nutter & Company

Represented By
Jason A Savlov

Trustee(s):

Sam S Leslie (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:16-14935 Craig Collins

Chapter 7

#25.00 [CASE DISMISSED ON 8/4/16]

Hrg re: Motion for relief from stay [RP]

THE BANK OF NEW YORK MELLON
VS
DEBTOR

Docket 30

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) There is no stay, due to dismissal. See 11 USC 349(b)(3) & 362(c). Termination of the stay is also addressed below because in rare instances dismissals are vacated.

(2) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(3) Relief applicable to future bankruptcy cases ("in rem" relief).

If this order is duly recorded in compliance with any applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case. For the avoidance of doubt, any acts by the movant to obtain exclusive

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

CONT... Craig Collins

Chapter 7

possession of such property shall not be stayed.

Such relief is granted on the following alternative grounds: (a) under 11 U.S.C. 362(d)(4) if the movant is either (i) the holder of a deed of trust/mortgage secured by real property that is the subject of the motion, (ii) the purchaser of such property at a foreclosure sale, or (iii) a successor in interest who stands in the shoes of such persons; (b) under the court's authority to grant appropriate relief under 11 U.S.C. 105(a) and 362(d) (regardless whether the movant is a "creditor" or whether real property or personal property is at issue); and (c) under the court's inherent authority combined with 11 U.S.C. 362(d) (same). *See generally In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31) (distinguishing *In re Ellis*, 523 B.R. 673 (9th Cir. BAP 2014), and explaining alternative grounds for "in rem" relief).

(4) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Craig Collins

Pro Se

Movant(s):

The Bank of New York Mellon FKA

Represented By
Mark D Estle

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:16-14935 Craig Collins

Chapter 7

#26.00 [CASE DISMISSED ON 8/4/16]

Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK, NA
vs
DEBTOR

Docket 36

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) There is no stay, due to dismissal. See 11 USC 349(b)(3) & 362(c). Termination of the stay is also addressed below because in rare instances dismissals are vacated.

(2) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(3) Relief applicable to future bankruptcy cases ("in rem" relief).

If this order is duly recorded in compliance with any applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case. For the avoidance of doubt, any acts by the movant to obtain exclusive

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

CONT... Craig Collins

Chapter 7

possession of such property shall not be stayed.

Such relief is granted on the following alternative grounds: (a) under 11 U.S.C. 362(d)(4) if the movant is either (i) the holder of a deed of trust/mortgage secured by real property that is the subject of the motion, (ii) the purchaser of such property at a foreclosure sale, or (iii) a successor in interest who stands in the shoes of such persons; (b) under the court's authority to grant appropriate relief under 11 U.S.C. 105(a) and 362(d) (regardless whether the movant is a "creditor" or whether real property or personal property is at issue); and (c) under the court's inherent authority combined with 11 U.S.C. 362(d) (same). See generally *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31) (distinguishing *In re Ellis*, 523 B.R. 673 (9th Cir. BAP 2014), and explaining alternative grounds for "in rem" relief).

(8) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Craig Collins

Pro Se

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Brandye N Foreman

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:16-17289 Alejandra Ramirez

Chapter 13

#27.00 Hrg re: Motion for relief from stay [RP]

WILMINGTON SAVINGS FUND SOCIETY, FSB
vs
DEBTOR

Docket 12

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) There is no stay, due to dismissal. See 11 USC 349(b)(3) & 362(c). Termination of the stay is also addressed below because in rare instances dismissals are vacated.

(2) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(3) Relief applicable to future bankruptcy cases ("in rem" relief).

If this order is duly recorded in compliance with any applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case. For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed.

Such relief is granted on the following alternative grounds: (a) under 11

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CONT... Alejandra Ramirez

Chapter 13

U.S.C. 362(d)(4) if the movant is either (i) the holder of a deed of trust/mortgage secured by real property that is the subject of the motion, (ii) the purchaser of such property at a foreclosure sale, or (iii) a successor in interest who stands in the shoes of such persons; (b) under the court's authority to grant appropriate relief under 11 U.S.C. 105(a) and 362(d) (regardless whether the movant is a "creditor" or whether real property or personal property is at issue); and (c) under the court's inherent authority combined with 11 U.S.C. 362(d) (same). See generally *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31) (distinguishing *In re Ellis*, 523 B.R. 673 (9th Cir. BAP 2014), and explaining alternative grounds for "in rem" relief).

(4) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Alejandra Ramirez

Pro Se

Movant(s):

Wilmington Savings Fund Society,

Represented By
Erin M McCartney

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:16-17489 Joseph Azzam

Chapter 13

#28.00 Hrg re: Motion for relief from stay [RP]

EQUITY FUNDING RESOURCES, INC.
vs
DEBTOR

Docket 17

Tentative Ruling:

Continue to 9/13/16 at 10:00 a.m. to address the following issues.
Appearances are not required on 9/6/16.

Option for shortened time: This court has selected a continued hearing date that contemplates shortened notice (per Rule 9006) but that date is conditioned on the movant serving all papers on *the day after the current hearing date*. Alternatively, the movant may self-calendar a continued hearing on *regular* notice.

Reasons: The movant has not established a colorable basis for its standing/status as a real party in interest to bring the motion. See *In re Veal*, 450 B.R. 897 (9th Cir. BAP 2011). The evidence in the attached motion includes a Deed of Trust (dkt 17, pg 16), an Absolute Assignment of Rents (dkt 17, pg 22), and a Promissory Note (dkt 17, pg 28), each of which list the "Lender Identification Rider attached hereto & made a part hereof" as the beneficiary. Neither copy of that document (dkt 17, pgs 27, 30) lists the movant, Equity Funding Resources, Inc., as a beneficiary, nor is there any power of attorney (which presumably would have to be executed by all of the beneficiaries) or other document authorizing the movant to act on behalf of the beneficiaries (such as an agreement among the beneficiaries authorizing any one of them to designate an agent to act for them, plus an actual designation of the movant as such an agent).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

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CONT... Joseph Azzam

Chapter 13

Debtor(s):

Joseph Azzam

Pro Se

Movant(s):

Equity Funding Resources, Inc.

Represented By
Nichole Glowin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:16-18971 CHERYL DENISE WEST

Chapter 13

#29.00 Hrg re: Motion for relief from stay [RP]

RJS FINANCIAL, INC.
vs
DEBTOR

Docket 28

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

CHERYL DENISE WEST

Represented By
Ivan M Lopez Ventura

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CONT... CHERYL DENISE WEST

Chapter 13

Movant(s):

RJS Financial, Inc.

Represented By

Raffi Khatchadourian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:16-20248 Edward Reed Solomon, Sr

Chapter 13

#30.00 Hrg re: Motion for relief from stay [RP]

CIVIC HOLDINGS I TRUST

vs

DEBTOR

[31307, 30870, 31060 Arbol Real and 16457 Avenida Merced]

Docket 13

Tentative Ruling:

Continue to 9/13/16 at 10:00 a.m. to address the following issues.
Appearances are not required on 9/6/16.

Option for shortened time: This court has selected a continued hearing date that contemplates shortened notice (per Rule 9006) but that date is conditioned on the movant serving all papers on *the day after the current hearing date*. Alternatively, the movant may self-calendar a continued hearing on *regular* notice.

Reasons:

(1) Standing. This court has reviewed the movant's evidence in support of the motion, and it appears that the movant has not demonstrated that it is the correct party in interest to bring the motion. The movant is listed in the motion as Civic Holdings I Trust ("Civic Trust"). The note and deed of trust attached to the motion demonstrate that the original lender under the note is Civic Financial Services dba Titan Capital ("Civic Financial"). The movant has attached to the motion an assignment of the deed of trust (dkt. 13, PDF p. 62) from MERS to Civic Financial. Movant has also provided a limited power of attorney (dkt. 13, PDF pp. 27-29) between Civic Trust and Servis One, Inc., dba BSI Financial Services. The movant has not, however, provided any evidence supporting a transfer of the loan from Civic Financial to Civic Trust, or a merger of the two entities.

If you wish to dispute the above tentative ruling, please see Judge Bason's

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CONT... **Edward Reed Solomon, Sr**

Chapter 13

Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Edward Reed Solomon Sr

Pro Se

Movant(s):

Civic Holdings I Trust, its

Represented By
Reilly D Wilkinson

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:16-20248 Edward Reed Solomon, Sr

Chapter 13

#31.00 Hrg re: Motion for relief from stay [RP]

CIVIC HOLDINGS I TRUST

vs

DEBTOR

[34277 Amber Lantern, Dana Point, CA 92629]

Docket 11

Tentative Ruling:

Continue to 9/13/16 at 10:00 a.m. to address the following issues.
Appearances are not required on 9/6/16.

Option for shortened time: This court has selected a continued hearing date that contemplates shortened notice (per Rule 9006) but that date is conditioned on the movant serving all papers on *the day after the current hearing date*. Alternatively, the movant may self-calendar a continued hearing on *regular* notice.

Reasons:

(1) Standing

The movant has not demonstrated that it is the correct party in interest to bring the motion for relief with respect to the real property located at 34277 Amber Lantern Street, Dana Point, CA 92629 (the "Amber Lantern property"). The movant is listed in the motion as Civic Holdings I Trust ("Civic Trust"). There does not appear to be any evidence, however, that loan documents were assigned to Civil Trust or that it is operating under a power of attorney or other appropriate documentation.

For that matter, the documents are inconsistent about who is the lender (or, for that matter, the borrower). The original lender under the note attached to the motion is Civic Financial Services ("Civic Financial"), and the borrower is listed as Sea Crest Properties, LLC ("Sea Crest") (for which the debtor, a member, served as signatory). Dkt. 11, PDF pp. 28-30. The attached deed of trust lists the lender as Alliance Portfolio, Private Equity Finance, Inc. ("Alliance"), with Neiman Investments Holdings, LLC ("Neiman

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CONT... Edward Reed Solomon, Sr

Chapter 13

Investments") listed as the borrower (for which the debtor, again a member, served as signatory). Dkt. 11, PDF pp. 34-40. The note and deed of trust apparently relate to different loans, since they list different lenders, different borrowers, list different loan amounts (\$500,000 v. \$550,000), and bear different origination dates (the note is dated 2/11/15, the deed of trust is dated 5/28/14).

True, Civic Trust may have some connection to this loan: attached to the motion is an assignment of the deed of trust (dkt. 11, PDF pp. 47-48) from Civic Financial to Civic Trust. But as noted above the deed of trust appears to relate to a different loan to a different borrower so that does not appear to give Civic Trust standing regarding the loan at issue.

(2) Debtor's opposition

The debtor's opposition (dkt. 28) raises numerous objections. The tentative ruling is to overrule them all for the following reasons.

(a) Lack of standing. The debtor has not shown how he has any standing to oppose the motion. The debtor asserts that he purchased the property in 2008. But at the time of the loan, the borrower and owner of the property apparently was either Sea Crest or Neiman Investments (as noted above, there is some ambiguity) and the debtor has not shown any chain of title transferring the property to him. To the contrary, the motion papers include a grant deed that apparently purports to transfer the Amber Lantern Property from a different entity (Five Borough Investments, LLC) to yet another entity Amber Lantern Holdings, LLC ("Amber Holdings") on 6/16/16 (dkt. 11, Declaration, PDF pp. 58-59). In the debtor's bankruptcy schedules he does not assert any interest in that entity. See dkt. 20.

The debtor asserts that he lives at the Amber Lantern property 3-4 days/week. Dkt. 28, PDF p. 5, para. 2 But he fails to provide any evidence of a lease or other right to occupy the property.

In sum, the debtor has not established that he (or his bankruptcy estate) are the real parties in interest or have standing to oppose the motion.

(b) Alleged equity in the property. The debtor alleges that there is substantial equity in the Amber Lantern property. But while most often such significant equity weighs in favor of denial of relief from the automatic stay, in this instance it is this debtor's alleged bad faith, not a lack of equity, upon which the movant relies in its request for relief under sections (d)(1) and (d)(4).

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CONT...

Edward Reed Solomon, Sr

Chapter 13

(c) Lack of good faith. The motion papers show a series of unauthorized transfers of the Amber Lantern property, and several bankruptcy filings, all for purposes of delaying the movant's remedies for non-payment of the loan secured by the property. For example, the motion alleges, and the debtor does not dispute, that he transferred the Amber Lantern property to Amber Holdings just a few days prior to the movant's scheduled foreclosure sale.

The movant also points to two prior orders granting relief from the automatic stay, the second of which granted "in rem" relief under 11 U.S.C. 362(d)(4) after a hearing on August 2, 2016, but which was not entered on the docket in the prior case until August 3, 2016, and meanwhile the debtor had filed this bankruptcy case. In other words, the prima facie evidence is that the debtor attempted to file this case quickly enough to evade the in rem relief.

Any one of these things establishes a prima facie showing of a lack of good faith, and the debtor has provided no evidence to the contrary. In fact, this court has reviewed the debtor's schedules filed on 8/15/16 (dkt. 20), many of which appear to be incomplete and/or inaccurate, and has taken judicial notice of other evidence of bad faith, as follows:

(i) Statement of Related Cases. Dkt. 1, p. 9. The debtor asserts that his prior bankruptcies are "unknown," despite listing one prior bankruptcy in his petition (dkt. 1, p. 3) and his most recent case having been filed on December 29, 2015 (2:15-bk-16053-ES).

(ii) Schedule A/B. Dkt. 20, pp. The debtor asserts that he is the sole owner of the Amber Lantern property with a fair market value of \$975,000, yet simultaneously asserts that the value of his "portion" of the property is \$345,000, which indicates that at least one other person or entity holds an interest in the subject property. As stated above, this court also questions whether the debtor holds any interest in this property at all.

Moreover, in his schedules filed on 2/9/16 in his most recent prior bankruptcy, the debtor listed interests in two additional real properties not disclosed in his current schedules (2:15-bk-16053-ES, dkt. 18, pp. 1-2 (66878 Vista Place, Desert Hot Springs; 28582 Sea Point, Laguna Niguel)); he lists yet another property address in his Statement of Financial Affairs ("SOFA") (dkt. 20, p. 38 - 4 Corte La Cereza, San Clemente). What happened to those properties? Normally any transfer or loss in foreclosure or other disposition would be disclosed on the SOFA.

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CONT... Edward Reed Solomon, Sr

Chapter 13

The debtor also claims to live in multiple locations (dkt. 1, p. 2; dkt. 28, PDF p. 5, para. 2) but lists no automobile. The only automobile listed is alleged to belong to his son. How does the debtor travel between his residences in San Dimas and Dana Point if he has no vehicle?

(iii) Schedule G. The debtor reports receipt of \$4,400/mo. in rental income in Schedule I (dkt. 20, p. 33) but lists no lessees in Schedule G.

(iv) Statement of Financial Affairs. In his 2015 petition, the debtor listed five businesses: Sea Crest Properties; Stone Mountain Holdings; GCH, LLC; Violet Financial; and Five VBorough Investments. In his current petition and Statement of Financial Affairs, he lists only Sea Crest (dkt. 20, p. 49)). Again, if the debtor had transferred or lost his interest in those missing entities, normally that would be disclosed in the SOFA.

(v) Chapter 13 plan. The plan (dkt. 19) proposes monthly payments of \$1,162.66 for 60 months, but then asserts that the movant will be paid monthly payments of \$1,333.33/mo. through the plan. The debtor provides for no interest to accrue over the 60 month plan period. The lien on the Thousand Palms properties is to receive no payments at all. Section III of the plan is blank.

(vi) False social security number. Perhaps most damning of all, in his prior bankruptcy case filed in 2015, the debtor used a Social Security Number belonging to someone else. See 2:15-bk-16053-ES, dkt. 37, 50.

For these reasons, this court's tentative ruling is to overrule the debtor's opposition and grant the motion based upon the debtor's bad faith, if the movant can demonstrate it is the correct entity to bring this motion. In addition, as set forth in the orders (dkt. 15, 16) denying the movant's applications for orders shortening time, there may be cause, if the proper procedures are followed, for additional relief.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Edward Reed Solomon Sr

Pro Se

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10:00 AM

CONT... Edward Reed Solomon, Sr

Chapter 13

Movant(s):

Civic Holdings I Trust, its

Represented By
Reilly D Wilkinson

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:13-36253 Lionel A Parrales and Erica Vasquez

Chapter 13

#32.00 Hrg re: Motion for relief from stay [PP]

TOYOTA LEASE TRUST
vs
DEBTOR

Docket 45

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Lionel A Parrales

Represented By
Alisa C Admiral
Alisa C Admiral

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CONT... Lionel A Parrales and Erica Vasquez

Chapter 13

Joint Debtor(s):

Erica Vasquez

Represented By
Alisa C Admiral
Alisa C Admiral

Movant(s):

Toyota Lease Trust

Represented By
Erica T Loftis

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:15-20488 Santiago Mayorga and Veronica Mayorga

Chapter 13

#33.00 Hrg re: Motion for relief from stay [PP]

SANTANDER CONSUMER USA INC.
vs
DEBTOR

Docket 48

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtors' response, dkt. 51).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Santiago Mayorga

Represented By
Caroline S Kim

Joint Debtor(s):

Veronica Mayorga

Represented By
Caroline S Kim

Movant(s):

Santander Consumer USA Inc. dba

Represented By
Jennifer H Wang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:16-13210 Andre Allen

Chapter 13

#34.00 Hrg re: Motion for relief from stay [PP]

WELLS FARGO BANK
vs
DEBTOR

Docket 23

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Andre Allen

Represented By
Todd B Becker

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CONT... Andre Allen

Chapter 13

Movant(s):

Wells Fargo Bank, N.A. dba Wells

Represented By

Jennifer H Wang

William P Barrett

Trustee(s):

Kathy A Dockery (TR)

Pro Se

United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:16-13556 Lamont Garner Karriem

Chapter 13

#35.00 Hrg re: Motion for relief from stay [PP]

SANTANDER CONSUMER USA INC.
vs
DEBTOR

Docket 24

*** VACATED *** REASON: This court has issued its order approving
the parties' adequate protection stipulation (dkt. 27).

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lamont Garner Karriem

Represented By

S Renee Sawyer Blume

S Renee Sawyer Blume

S Renee Sawyer Blume

Movant(s):

Santander Consumer USA Inc. dba

Represented By

Jennifer H Wang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:16-20837 Arturo Perez

Chapter 13

#36.00 Hrg re: Motion for relief from stay [UD]

ROSALINA FERNANDEZ
vs
DEBTOR

Docket 7

Tentative Ruling:

Grant in part and deny in part as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Retroactive relief. Deny the request for retroactive annulment of the stay because Judge Bason is not prepared to issue a blanket annulment with respect to whatever unspecified things might have occurred postpetition.

(3) Retroactive relief. Deny the request for retroactive annulment of the stay because Judge Bason is not prepared to issue a blanket annulment with respect to whatever unspecified things might have occurred postpetition.

(4) Relief applicable to future bankruptcy cases ("in rem" relief). Deny request for *in rem* relief under section 362(d)(4) for lack of sufficient cause shown.

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CONT... Arturo Perez

Chapter 13

(5) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Arturo Perez

Pro Se

Movant(s):

ROSALINA Fernandez

Represented By
James Edward McDaniel

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:16-20577 Marco Antonio Rodriguez

Chapter 13

#37.00 Hrg re: Motion for relief from stay [UD]

JUVENAL AMEZQUITA
vs
DEBTOR

Docket 7

Tentative Ruling:

Grant in part and deny in part as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) There is no stay, due to dismissal. See 11 USC 349(b)(3) & 362(c). Termination of the stay is also addressed below because in rare instances dismissals are vacated.

(2) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(3) Retroactive relief. Deny the request for retroactive annulment of the stay because Judge Bason is not prepared to issue a blanket annulment with respect to whatever unspecified things might have occurred postpetition.

(4) Relief applicable to future bankruptcy cases ("in rem" relief). Deny request for *in rem* relief under section 362(d)(4) for lack of sufficient cause shown.

(5) Effective date of relief. Grant the request to waive the 14-day stay

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10:00 AM

CONT... **Marco Antonio Rodriguez**
provided by FRBP 4001(a)(3).

Chapter 13

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Marco Antonio Rodriguez	Pro Se
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Movant(s):

Juvenal Amezcuita	Represented By James Edward McDaniel
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Trustee(s):

Kathy A Dockery (TR)	Pro Se
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**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:16-16809 Yun H Parkchung

Chapter 7

#38.00 Hrg re: Motion for relief from stay [UD]

3075 WILSHIRE, LLC
vs
DEBTOR

Docket 31

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

Key documents reviewed (in addition to motion papers): Dkt 32, "Memorandum of Points and Authorities in Support of Motion for Relief from Stay; Declaration of Jason Cha in Support Thereof."

(1) There is no stay, due to dismissal. See 11 USC 349(b)(3) & 362(c). Termination of the stay is also addressed below because in rare instances dismissals are vacated.

(2) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(3) Retroactive relief. Grant the request for retroactive annulment of the stay.

(4) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

CONT... Yun H Parkchung

Chapter 7

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Yun H Parkchung

Pro Se

Movant(s):

3075 Wilshire, LLC.

Represented By
Christian T Kim

Trustee(s):

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:16-18903 Maria Camacho

Chapter 13

#39.00 [CASE DISMISSED ON 8/18/16]

Hrg re: Motion for relief from stay [UD]

THE BANK OF NEW YORK MELLON
VS
DEBTOR

Docket 12

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) There is no stay, due to dismissal. See 11 USC 349(b)(3) & 362(c). Termination of the stay is also addressed below because in rare instances dismissals are vacated.

(2) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(3) Relief applicable to future bankruptcy cases ("in rem" relief).

If this order is duly recorded in compliance with any applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case. For the avoidance of doubt, any acts by the movant to obtain exclusive

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CONT... Maria Camacho

Chapter 13

possession of such property shall not be stayed.

Such relief is granted on the following alternative grounds: (a) under 11 U.S.C. 362(d)(4) if the movant is either (i) the holder of a deed of trust/mortgage secured by real property that is the subject of the motion, (ii) the purchaser of such property at a foreclosure sale, or (iii) a successor in interest who stands in the shoes of such persons; (b) under the court's authority to grant appropriate relief under 11 U.S.C. 105(a) and 362(d) (regardless whether the movant is a "creditor" or whether real property or personal property is at issue); and (c) under the court's inherent authority combined with 11 U.S.C. 362(d) (same). *See generally In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31) (distinguishing *In re Ellis*, 523 B.R. 673 (9th Cir. BAP 2014), and explaining alternative grounds for "in rem" relief).

(4) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Maria Camacho

Pro Se

Movant(s):

The Bank of New York Mellon FKA

Represented By
Erin M McCartney

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:16-18924 Marisela Nunez

Chapter 13

#40.00 [CASE DISMISSED ON 8/18/16]

Hrg re: Motion for relief from stay [UD]

E*TRADE BANK
VS
DEBTOR

Docket 14

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) There is no stay, due to dismissal. See 11 USC 349(b)(3) & 362(c). Termination of the stay is also addressed below because in rare instances dismissals are vacated.

(2) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(3) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

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Central District of California
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Judge Neil Bason, Presiding
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Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

CONT... Marisela Nunez

Chapter 13

Debtor(s):

Marisela Nunez

Pro Se

Movant(s):

E*TRADE BANK

Represented By
Caren J Castle

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:16-19593 Jorge Campos

Chapter 13

#41.00 (CASE DISMISSED ON 8/24/16)

Hrg re: Motion for relief from stay [UD]

RENE MOJICA

vs

DEBTOR

Docket 11

Tentative Ruling:

Grant in part and deny in part as set forth below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) There is no stay, due to dismissal. See 11 USC 349(b)(3) & 362(c). Termination of the stay is also addressed below because in rare instances dismissals are vacated.

(2) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(3) Relief applicable to future bankruptcy cases ("in rem" relief). Deny request for *in rem* relief for lack of sufficient cause shown.

(4) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

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10:00 AM

CONT... Jorge Campos

Chapter 13

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Jorge Campos

Pro Se

Movant(s):

Rene Mojica

Represented By
Luke P Daniels

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:16-19956 Magdaleno Nava

Chapter 13

#42.00 Hrg re: Motion for relief from stay [UD]

U.S. BANK NATIONAL ASSOC
vs
DEBTOR

Docket 16

Tentative Ruling:

Grant in part and continue in part to 9/27/16 at 10:00 a.m. as set forth below.
Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this court's final ruling. See LBR 9021-1(b)(1)(B).

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Relief applicable to future bankruptcy cases ("in rem" relief).

As to the requested "*in rem*" relief, continue the motion to the date and time set forth at the start of this tentative ruling, for service on the persons who executed the documents through which the movant asserts its interest in the property (sometimes referred to in the mortgage context as the "original borrower"). Reasons: Judge Bason has due process concerns about granting *in rem* relief without service on the person(s) whose interests may be most directly affected. See *generally Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950) (due process generally). In this matter, such persons appear to include: Armando Nava.

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10:00 AM

CONT...

Magdaleno Nava

Chapter 13

Option for shortened time: This court has selected a continued hearing date that contemplates shortened notice (per Rule 9006) but that date is conditioned on the movant serving all papers on *the day after the current hearing date*. Alternatively, the movant may self-calendar a continued hearing on *regular* notice.

Option for interim/partial order: Movant may elect to lodge a proposed order granting the *partial* relief provided in this tentative ruling, but any such order must recite that a continued hearing has been set to consider additional relief (or, alternatively, that the movant no longer seeks additional relief and the Clerk's office is requested and directed to take the continued hearing off calendar).

(3) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Magdaleno Nava

Pro Se

Movant(s):

U.S. Bank National Association, as

Represented By
Erin M McCartney

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:16-20016 Scott Dadour

Chapter 13

#43.00 [CASE DISMISSED ON 8/15/16]

Hrg re: Motion for relief from stay [UD]

CUONG TRUONG

vs

DEBTOR

Docket 7

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) There is no stay, due to dismissal. See 11 USC 349(b)(3) & 362(c). Termination of the stay is also addressed below because in rare instances dismissals are vacated.

(2) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(3) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

(4) Evidence. This court notes that the declaration attached to the motion is incomplete and/or contains changes to the mandatory form (which are hereby treated as a request to amend the form per LBR 9009-1). This court makes no determination whether such omissions/changes would withstand an

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CONT... Scott Dadour

Chapter 13

evidentiary objection. Nevertheless, this court has considered the key documents because (a) there are no evidentiary objections and/or (b) those documents appear to be admissible on other grounds. In future the movant's failure to complete the form properly may result in denial of the motion sua sponte.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Scott Dadour

Pro Se

Movant(s):

CUONG TRUONG

Represented By
Helen G Long

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:16-20336 Juan Hernandez

Chapter 13

#44.00 [CASE DISMISSED ON 8/22/16]

Hrg re: Motion for relief from stay [UD]

NARI TEKCHANDANI
vs
DEBTOR

Docket 7

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this court's final ruling. See LBR 9021-1(b)(1)(B).

(1) There is no stay, due to dismissal. See 11 USC 349(b)(3) & 362(c). Termination of the stay is also addressed below because in rare instances dismissals are vacated.

(2) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(3) Relief applicable to future bankruptcy cases ("in rem" relief).

If this order is duly recorded in compliance with any applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this

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CONT...

Juan Hernandez

Chapter 13

order, unless otherwise ordered by the court presiding over that bankruptcy case. For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed.

Such relief is granted on the following alternative grounds: (a) under 11 U.S.C. 362(d)(4) if the movant is either (i) the holder of a deed of trust/mortgage secured by real property that is the subject of the motion, (ii) the purchaser of such property at a foreclosure sale, or (iii) a successor in interest who stands in the shoes of such persons; (b) under the court's authority to grant appropriate relief under 11 U.S.C. 105(a) and 362(d) (regardless whether the movant is a "creditor" or whether real property or personal property is at issue); and (c) under the court's inherent authority combined with 11 U.S.C. 362(d) (same). See generally *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31) (distinguishing *In re Ellis*, 523 B.R. 673 (9th Cir. BAP 2014), and explaining alternative grounds for "in rem" relief).

(4) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Juan Hernandez

Pro Se

Movant(s):

Nari Tekchandani

Represented By
Carol G Unruh

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:16-12097 Aaron Douglas Hoobler and Mary Louise Hoobler

Chapter 13

#45.00 Hrg re: Motion for relief from stay [UD]

FREO CALIFORNIA, LLC
vs
DEBTOR

Docket 35

Tentative Ruling:

Continue to 9/13/16 at 10:00 a.m. to address the following issues.
Appearances are not required on 9/6/16.

Option for shortened time: This court has selected a continued hearing date that contemplates shortened notice (per Rule 9006) but that date is conditioned on the movant serving all papers on *the day after the current hearing date*. Alternatively, the movant may self-calendar a continued hearing on *regular* notice.

Reasons: The proof of service ("POS") attached to the motion does not show any service on the debtor. It is true that the POS shows service on the debtor's attorney, but the requirement for service in bankruptcy cases is exactly the opposite of what is normally required in nonbankruptcy cases: despite the general ethical prohibition against any communication with a represented party, a debtor in bankruptcy is required to be served both via counsel and directly at the debtor's own address of record. See Rules 7004 (g), 9014(b), Fed. R. Bankr. P.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Aaron Douglas Hoobler

Represented By
Mufthiha Sabaratnam

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CONT... Aaron Douglas Hoobler and Mary Louise Hoobler

Chapter 13

Joint Debtor(s):

Mary Louise Hoobler

Represented By
Mufthiha Sabaratnam

Movant(s):

FREO CALIFORNIA, LLC

Represented By
Helen G Long

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:13-21517 Michael Anthony John Nangano

Chapter 13

#46.00 Hrg re: Motion for relief from stay [NA]

1055 SEVENTH, LLC
vs
DEBTOR

Docket 103

Tentative Ruling:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures"). The parties should be prepared to address the following issues.

Key documents reviewed (in addition to motion papers): the debtor's opposition (dkt. 107).

(1) Limited relief. This court's tentative ruling is to modify and condition the automatic stay under 11 U.S.C. 362(d)(1) such that the movant may proceed in the nonbankruptcy forum to final judgment (including any appeals) in accordance with applicable nonbankruptcy law, subject to the following limitations (Judge Bason's standard limitations).

(a) In general, no enforcement of any claim against property of the bankruptcy estate. As requested by the debtor in his opposition (and consistent with this court's standard procedures), the stay remains in effect with respect to enforcement of any judgment against property of the debtor's bankruptcy estate - any such property shall be distributed when and how provided by the Bankruptcy Code. Nevertheless, the movant is permitted to enforce its final judgment by (i) collecting upon any available insurance in accordance with applicable nonbankruptcy law or (ii) proceeding against the debtor as to property that is not property of this bankruptcy estate. See, e.g., 11 U.S.C. 362(b)(2)(B) & 541(b)(7) (collection of domestic support obligations from ERISA qualified retirement plans).

Additionally, **at the hearing the parties should be prepared to**

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CONT... Michael Anthony John Nangano

Chapter 13

address whether, notwithstanding the foregoing, the movant may enforce its judgment against (1) the pre-petition security deposit and (2) any personal property which may have been left at the premises. Has the debtor, by signing the stipulation for entry of judgment for possession (dkt. 103, PDF pp. 50-52, the "Stipulation"), waived any argument that the movant *cannot* enforce its judgment against these things? The Stipulation clearly provides that any items of personal property left on the premises were "deemed abandoned" by the debtor and his co-lessee. See dkt. 103, PDF p. 51, para. 2. It further provides that the movant may apply the security deposit to the debtor and his co-lessee's indebtedness after they vacated the premises. See dkt. 103, PDF p. 51, para. 3. Because the debtor and his co-lessee allegedly vacated the premises on May 31, 2015 (dkt. 103, PDF p. 12:14-15), this court presumes that the movant is seeking annulment of the automatic stay (to the extent it applies) as to (I) its application of the security deposit to the debtor's and his co-lessee's indebtedness, and (II) as to the movant's disposition of any abandoned personal property of the debtor. If the movant has not yet proceeded with these actions, why should this court not grant relief from the automatic stay to allow the movant to do so?

(b) Claim allowance, priority, and discharge issues. Any claims arising from the nonbankruptcy litigation are subject to this Bankruptcy Court's jurisdiction regarding claim allowance and priority, and the existence and scope of any bankruptcy discharge.

(c) No relief in *other* bankruptcy cases. To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Additional analysis:

The Bankruptcy Court "shall grant relief from the stay" upon a showing of "cause." 11 U.S.C. 362(d)(1). Such relief need not take the form of a complete termination of the automatic stay, but instead may include "modifying or conditioning such stay." *Id.*

"Cause" is determined on a case-by-case basis." *In re Tucson*, 912 F.2d 1162, 1166 (9th Cir.1990). In determining whether "cause" exists to grant relief from the automatic stay to allow a movant to pursue litigation in a

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CONT... Michael Anthony John Nangano

Chapter 13

non-bankruptcy forum, courts in the Ninth Circuit have examined the factors set forth in *In re Curtis*, 40 B.R. 795, 799–800 (Bankr. D. Utah 1984). See *In re Kronmeyer*, 405 B.R. 915 (9th Cir. BAP 2009); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559–60 (Bankr. C.D. Cal.2004). Those factors are: (1) Whether the relief will result in a partial or complete resolution of the issues; (2) The lack of any connection with or interference with the bankruptcy case; (3) Whether the foreign proceeding involves the debtor as a fiduciary; (4) Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases; (5) Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation; (6) Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question; (7) Whether the litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties; (8) Whether the judgment claim arising from the foreign action is subject to equitable subordination under Section 510(c); (9) Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f); (10) The interests of judicial economy and the expeditious and economical determination of litigation for the parties; (11) Whether the foreign proceedings have progressed to the point where the parties are prepared for trial; and (12) The impact of the stay on the parties and the "balance of hurt." *Plumberex*, 311 B.R. at 559. "[W]hile the *Curtis* factors are widely used to determine the existence of 'cause,' not all of the factors are relevant in every case, nor is a court required to give each factor equal weight." *In re Landmark Fence Co., Inc.*, 2011 WL 6826253 at *4 (C.D. Cal. Dec. 9, 2011).

Based on the present record, the tentative ruling is that these factors weigh in favor of granting relief as set forth above. Most significantly, the debtor and the movant have stipulated to entry of judgment in the nonbankruptcy action.

(2) Applicability of the stay. The movant asserts in the motion that because the state court action involves claims for unpaid postpetition rent, the automatic stay does not apply. The movant relies upon *In re Jackson*, 403 B.R. 95 (Bankr. Id. 2009). That case is distinguishable.

As illustrated by *Jackson*: the paragraphs of 11 U.S.C. 362(a) need to be analyzed separately:

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CONT...

Michael Anthony John Nangano

Chapter 13

(a) Prepetition claims: Paragraphs (1), (2), (5), (6) & (7) (of section 362

(a)) only apply to prepetition claims, and it is unclear whether the claims at issue are prepetition (the movant contends that the debtor and his co-lessee failed to pay rent and other charges as they came due at some unspecified time "[p]rior to March 19, 2015" (dkt. 103, PDF p. 12:9-10), which could have been prepetition, and based on the evidence presented it appears that at least some missed payments may have occurred pre-petition, *i.e.*, between October 2009 and May 2013). But in any event:

(b) Acts against "property of the estate": Paragraphs (3)&(4) (of 11 U.S.C. 362(a)) prohibit acts against "property of the estate." In *Jackson*, unlike this case, confirmation of the plan revested all property of the estate in the debtor - at least, all property existing as of the confirmation date - and the court addressed whether post-confirmation property was or was not property of the estate. In this case under the confirmed plan property does not revest in the debtor until the end of the chapter 13 case. See dkt. 25, p.8 (plan), dkt. 31 (confirmation order). That "property" included the debtor's interest in the prepetition lease (which apparently still existed as of the time of the acts at issue), the security deposit, and the personal property at the premises. So the movant has not established any exception to the automatic stay of 11 U.S.C. 362(a)(3) & (4).

(No party has addressed whether there might be a tacit exception under 28 U.S.C. 959, which generally permits suits against a debtor in bankruptcy without leave of the bankruptcy court.)

(3) Retroactive relief. Grant the request for retroactive annulment of the stay, though this court notes that in the future, the movant must specifically argue the grounds for such relief (*i.e.*, the movant was not aware of the debtor's bankruptcy at the time the lawsuit was filed, and/or other predicates to such relief).

(4) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

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CONT... Michael Anthony John Nangano

Chapter 13

Debtor(s):

Michael Anthony John Nangano

Represented By
Matthew D Resnik
S Renee Sawyer Blume

Movant(s):

1055 Seventh, LLC

Represented By
Robert K Lee
Christian T Kim

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:16-19152 David Torres-Guerrero

Chapter 7

#47.00 Hrg re: Motion for relief from stay [UD]

NAJIB TAUFIG
vs
DEBTOR

Docket 20

Tentative Ruling:

Continue to 9/13/16 at 10:00 a.m. to address the following issues.
Appearances are not required on 9/6/16.

Option for shortened time: This court has selected a continued hearing date that contemplates shortened notice (per Rule 9006) but that date is conditioned on the movant serving all papers on *the day after the current hearing date*. Alternatively, the movant may self-calendar a continued hearing on *regular* notice.

Reasons:

(1) Standing. This court has reviewed the movant's evidence in support of the motion, and it appears that the movant has not demonstrated that he is the correct party in interest to bring the motion. The evidence attached to the motion demonstrates that Taufiq Investment Group, Inc. ("TIG") purchased the subject real property at a foreclosure sale held in May 2016, and that TIG was the plaintiff in the underlying unlawful detainer action. The movant has not, however, provided any evidence demonstrating that movant Najib Taufiq, an individual, holds any interest in the subject property.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

CONT... David Torres-Guerrero

Chapter 7

Debtor(s):

David Torres-Guerrero

Pro Se

Movant(s):

Najib Taufiq

Represented By
Gary S Saunders

Trustee(s):

Alberta P Stahl (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:16-16363 Lake Mathews Mineral Properties, LTD

Chapter 11

#48.00 Hrg re: Motion for relief from stay [NA]

PECAS, LLC
vs
DEBTOR

Docket 57

***** VACATED *** REASON: This matter is scheduled to be heard at a
different time. See #15 at 1:00 p.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lake Mathews Mineral Properties,

Represented By
Michael Jay Berger

Movant(s):

PECAS, LLC.

Represented By
Cassandra J Richey

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:16-19128 Perla Rendon

Chapter 13

#49.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 14

Tentative Ruling:

Deny. Appearances required to address whether the case should be dismissed (see Judge Bason's Procedures, posted at www.cacb.uscourts.gov, then search for "362(c)(3)").

Reasons: The motion was not timely set for hearing in accordance with 11 U.S.C. 362(c)(3)(B) (providing that "on the motion of a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors . . . after notice and a hearing completed before the expiration of the 30-day period [after the petition date, *i.e.*, 7/11/16 + 30 days]." (emphasis added)).

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this court's final ruling.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Perla Rendon

Represented By
Robert L Williams

Movant(s):

Perla Rendon

Represented By
Robert L Williams

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

CONT... Perla Rendon

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:16-20484 Isabelle Elias Elkhoury

Chapter 13

#50.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 14

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via
LOU within 7 days after the hearing date.

If you wish to dispute the above tentative ruling, please see Judge Bason's
Procedures (posted at www.cacb.uscourts.gov) then search for "tentative
rulings".

Party Information

Debtor(s):

Isabelle Elias Elkhoury

Represented By
Claudia L Phillips
Claudia L Phillips
Claudia L Phillips

Movant(s):

Isabelle Elias Elkhoury

Represented By
Claudia L Phillips
Claudia L Phillips
Claudia L Phillips

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:11-62433 Connie Schultz

Chapter 13

#51.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 08/02/16

THE BANK OF NEW YORK MELLON
VS
DEBTOR

Docket 62

Tentative Ruling:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Connie Schultz

Represented By
Edmond Nassirzadeh

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

CONT... Connie Schultz

Chapter 13

Movant(s):

The Bank of New York Mellon FKA

Represented By
Erica T Loftis
Mark D Estle

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:12-26145 Peter Jefferson Davis and Sylvia Marie Davis

Chapter 13

#52.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 08/02/16

SETERUS, INC.
VS
DEBTOR

Docket 75

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtors' response, dkt. 78).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Peter Jefferson Davis

Represented By
Stephen L Burton

Joint Debtor(s):

Sylvia Marie Davis

Represented By
Stephen L Burton
Stephen L Burton

Movant(s):

Seterus, Inc., as the authorized

Represented By
Darren J Devlin

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

CONT... Peter Jefferson Davis and Sylvia Marie Davis

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:12-33094 John Gilbert Garcia and Rose Marie Garcia

Chapter 13

#53.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 7/19/16

JP MORGAN CHASE BANK
VS
DEBTOR

Docket 52

***** VACATED *** REASON: This court has issued its order approving
the parties' adequate protection stipulation (dkt. 55).**

Tentative Ruling:

Party Information

Debtor(s):

John Gilbert Garcia

Represented By
David Lozano

Joint Debtor(s):

Rose Marie Garcia

Represented By
David Lozano

Movant(s):

JP Morgan Chase Bank NA, its

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:12-49370 Susan Jennifer Mead

Chapter 13

#54.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 8/2/16

U.S. BANK, NATIONAL ASSOCIATION
VS
DEBTOR

Docket 32

***** VACATED *** REASON: This court has issued its order approving
the parties' adequate protection stipulation (dkt. 36).**

Tentative Ruling:

Party Information

Debtor(s):

Susan Jennifer Mead

Represented By
Tamar Terzian
Tamar Terzian
Tamar Terzian

Movant(s):

U.S. Bank, National Association, As

Represented By
Nancy L Lee
Brandye N Foreman

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:13-21301 Jose Eduardo Mejia and Paula O Mejia

Chapter 13

#55.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 6/21/16, 7/19/16

WELLS FARGO BANK, N.A.
VS
DEBTOR

Docket 48

***** VACATED *** REASON: This Court has issued an order approving
the parties' stipulation (dkt. 55).**

Tentative Ruling:

Party Information

Debtor(s):

Jose Eduardo Mejia

Represented By
Steven A Alpert

Joint Debtor(s):

Paula O Mejia

Represented By
Frank X Ruggier
Frank X Ruggier
Steven A Alpert
Steven A Alpert

Movant(s):

Wells Fargo Bank, N.A. as Trustee

Represented By
Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:13-28851 Rodney Edward Donkin, Jr

Chapter 13

#56.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 06/21/16, 7/19/16

GREEN PLANET SERVICING, LLC
vs
DEBTOR

Docket 170

***** VACATED *** REASON: This court has issued its order approving
the parties' adequate protection stipulation (dkt. 176).**

Tentative Ruling:

Party Information

Debtor(s):

Rodney Edward Donkin Jr

Represented By
Louis J Esbin
Louis J Esbin
Louis J Esbin
Louis J Esbin

Movant(s):

Green Planet Servicing, LLC

Represented By
Nancy L Lee
Rosemary Hong
Jonathan J Damen
Brett P Ryan

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:13-37221 Jose Francisco Moreno

Chapter 13

#57.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 8/9/16

JP MORGAN CHASE BANK, NATIONAL ASSOC
VS
DEBTOR

Docket 45

***** VACATED *** REASON: Adequate protection order entered (dkt. 53)**

Tentative Ruling:

Party Information

Debtor(s):

Jose Francisco Moreno

Represented By
Ali R Nader
Ali R Nader

Movant(s):

JPMorgan Chase Bank, National

Represented By
Rochelle L Johnson
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:14-14043 Mario O Retana and Sandra Del Socorro Murillo

Chapter 13

#58.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 8/2/16

JP MORGAN CHASE BANK
VS
DEBTOR

Docket 70

***** VACATED *** REASON: This court has issued its order approving
the parties' adequate protection stipulation (dkt. 76).**

Tentative Ruling:

Party Information

Debtor(s):

Mario O Retana

Represented By
Michael F Frank

Joint Debtor(s):

Sandra Del Socorro Murillo

Represented By
Michael F Frank

Movant(s):

JPMORGAN CHASE BANK,

Represented By
Gagan G Vaideeswaran
Michael S Harper
Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:14-25770 Terri Anita Payne

Chapter 13

#59.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 7/19/16

LAKEVIEW LOAN SERVICING, LLC
VS
DEBTOR

Docket 38

***** VACATED *** REASON: This court has issued its order approving
the parties' adequate protection stipulation (dkt. 46).**

Tentative Ruling:

Party Information

Debtor(s):

Terri Anita Payne

Represented By
David Lozano
David Lozano

Movant(s):

Lakeview Loan Servicing, LLC

Represented By
Katelyn R Knapp
Brandye N Foreman
Christina J O

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:15-11514 Bernadette Black-Fernandez

Chapter 13

#60.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 08/02/16

SETERUS, INC.
VS
DEBTOR

Docket 29

***** VACATED *** REASON: Withdrawal of Motion filed on 08/16/16
(dkt. 34)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bernadette Black-Fernandez

Represented By
Axel H Richter

Movant(s):

Seterus, Inc. as the authorized

Represented By
Merdaud Jafarnia
Darren J Devlin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:15-16267 Sandra Denise Spragin

Chapter 13

#61.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 8/9/16

MIDFIRST BANK
VS
DEBTOR

Docket 30

***** VACATED *** REASON: This court has issued its order approving
the parties' adequate protection stipulation (dkt. 33).**

Tentative Ruling:

Party Information

Debtor(s):

Sandra Denise Spragin

Represented By
Christine A Kingston

Movant(s):

Midfirst Bank, its assignees and/or

Represented By
Merdaud Jafarnia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:15-21370 Bonny Jularbal-Cooper

Chapter 13

#62.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 7/19/16, 8/9/16

HSBC BANK USA, NATIONAL ASSOC
VS
DEBTOR

Docket 38

***** VACATED *** REASON: This court has issued its order approving
the parties' adequate protection stipulation (dkt. 43).**

Tentative Ruling:

Party Information

Debtor(s):

Bonny Jularbal-Cooper

Represented By
Nima S Vokshori
Nima S Vokshori

Movant(s):

HSBC BANK USA, NATIONAL

Represented By
Erin M McCartney

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:15-22653 Juan Sanchez

Chapter 13

#63.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 5/31/16, 7/5/16

SETERUS, INC
VS
DEBTOR

Docket 33

***** VACATED *** REASON: This court has issued its order approving the parties' stipulation to continue this hearing to 11/8/16 at 10:00 a.m. (dkt. 41).**

Tentative Ruling:

Party Information

Debtor(s):

Juan Sanchez

Represented By
Rebecca Tomilowitz
Rebecca Tomilowitz

Movant(s):

Seterus, Inc., as the authorized

Represented By
Darren J Devlin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:15-24005 Erick Garcia

Chapter 13

#64.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 8/9/16

US BANK NATIONAL ASSOCIATION
VS
DEBTOR

Docket 25

***** VACATED *** REASON: Adequate protection order entered (dkt. 29).**

Tentative Ruling:

Party Information

Debtor(s):

Erick Garcia

Represented By
D Justin Harelik

Movant(s):

US Bank National Association

Represented By
Craig A Edelman
Erica T Loftis
Mark D Estle

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:15-25730 Victor Manuel Ramirez and Maria Auxilio Ramirez

Chapter 13

#65.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 8/2/16

HSBC BANK USA, NA.
vs
DEBTOR

Docket 30

***** VACATED *** REASON: This court has issued its order approving
the parties' adequate protection stipulation (dkt. 37).**

Tentative Ruling:

Party Information

Debtor(s):

Victor Manuel Ramirez

Represented By
Rabin J Pournazarian

Joint Debtor(s):

Maria Auxilio Ramirez

Represented By
Rabin J Pournazarian

Movant(s):

HSBC Bank USA, N.A, as Trustee

Represented By
Brandye N Foreman
April Harriott

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:16-12678 Ceola Vivian Morgan

Chapter 13

#66.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 7/19/16

WELLS FARGO BANK
vs
DEBTOR

Docket 32

Tentative Ruling:

Tentative Ruling for 9/6/16:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the 7/19/16 hearing on the motion, this court continued the hearing at the request of the movant to allow the parties additional time to negotiate the terms of an adequate protection agreement. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 7/19/16:

Pursuant to the parties' stipulated motion (dkt. 36), this matter is continued to 9/27/16 at 10:00 a.m. Appearances are not required on 7/19/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 7/19/16:

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

CONT... Ceola Vivian Morgan

Chapter 13

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 35).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ceola Vivian Morgan

Represented By

Michael Avanesian

Michael Avanesian

Michael Avanesian

William S Youkstetter

William S Youkstetter

William S Youkstetter

Movant(s):

WELLS FARGO BANK, N.A.

Represented By

Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:11-54213 Sandra Kaye Phillips

Chapter 13

#67.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 08/02/16

SETERUS, INC.
vs
DEBTOR

Docket 53

Tentative Ruling:

Tentative Ruling for 9/6/16:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

On 8/1/16, this court entered its order (dkt. 56) approving the parties' stipulation (dkt. 55) to the continue the 8/2/16 hearing on this matter. There is no tentative ruling, but the parties should be prepared to address the status of their dispute, and whether they have consensually resolved this matter.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Sandra Kaye Phillips

Represented By
Brad Weil

Movant(s):

Seterus, Inc., as the authorized

Represented By
Darren J Devlin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

CONT... Sandra Kaye Phillips

Chapter 13

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

2:12-19222 Francisco A. Quezada and Ana M. Abarca

Chapter 13

#68.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 8/2/16

JP MORGAN CHASE BANK
vs
DEBTOR

Docket 61

Tentative Ruling:

Tentative Ruling for 9/6/16:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

At the 8/2/16 hearing on the motion, this court continued the hearing at the request of the parties to allow them additional time to negotiate the terms of an adequate protection agreement. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/2/16:

Grant as provided below. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

10:00 AM

CONT... Francisco A. Quezada and Ana M. Abarca

Chapter 13

U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Francisco A. Quezada

Represented By
Leonard Pena

Joint Debtor(s):

Ana M. Abarca

Represented By
Leonard Pena

Movant(s):

JPMorgan Chase Bank, National

Represented By
Robert P Zahradka

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

11:00 AM

2:12-28265 Randall William Musgrove and Andrea Lynn Musgrove

Chapter 7

#1.00 Hrg re: Trustee's final report and account;
Applications for fees
[Filed by Wesley Avery, Chapter 7 Trustee]

Docket 124

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Randall William Musgrove

Represented By
Thomas B Ure

Joint Debtor(s):

Andrea Lynn Musgrove

Represented By
Thomas B Ure

Trustee(s):

Wesley H Avery (TR)

Represented By
Toan B Chung

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

11:00 AM

2:12-28265 Randall William Musgrove and Andrea Lynn Musgrove

Chapter 7

#2.00 Hrg re: Application for Compensation of
Final Fees and/or Expenses
[Filed by Roquemore, Pringle & Moore, Inc. Attorney for Trustee]

Docket 123

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Randall William Musgrove

Represented By
Thomas B Ure

Joint Debtor(s):

Andrea Lynn Musgrove

Represented By
Thomas B Ure

Trustee(s):

Wesley H Avery (TR)

Represented By
Toan B Chung

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

11:00 AM

2:12-28265 Randall William Musgrove and Andrea Lynn Musgrove

Chapter 7

#3.00 Hrg re: First Interim and Final Application for
Compensation and Reimbursement of Expenses
[Filed by Crowe Horwath LLP, Accountants for the Chapter 7 Trustee]

Docket 121

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via
LOU within 7 days after the hearing date.

If you wish to dispute the above tentative ruling, please see Judge Bason's
Procedures (posted at www.cacb.uscourts.gov) then search for "tentative
rulings".

Party Information

Debtor(s):

Randall William Musgrove

Represented By
Thomas B Ure

Joint Debtor(s):

Andrea Lynn Musgrove

Represented By
Thomas B Ure

Trustee(s):

Wesley H Avery (TR)

Represented By
Toan B Chung

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

11:00 AM

2:15-27384 Richard John McDonald

Chapter 13

Adv#: 2:16-01069 LoanMe, Inc. v. McDonald

#4.00 Cont'd Status Conference re: Complaint to
Determine Dischargeability of Debt
fr. 04/26/16

Docket 1

***** VACATED *** REASON: Order approving stipulation for entry of
non-dischargeable judgment [dkt. 12]**

Tentative Ruling:

Party Information

Debtor(s):

Richard John McDonald

Represented By
Heather J Canning

Defendant(s):

Richard John McDonald

Pro Se

Plaintiff(s):

LoanMe, Inc.

Represented By
David W Brody

Trustee(s):

Kathy A Dockery (TR)

Pro Se

Kathy A Dockery (TR)

Pro Se

U.S. Trustee(s):

United States Trustee (LA)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, September 06, 2016

Hearing Room 1545

1:00 PM

2:16-19500 Richard Todd Hicks and Edith Armstrong Hicks

Chapter 11

#1.00 Status conference re: Chapter 11 case

Docket 9

Tentative Ruling:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues.

(a) Application to employ general bankruptcy counsel. Why have proposed counsel not self-calendared a hearing on their employment application (dkt. 12) in response to the objection of the United States Trustee ("UST," dkt. 19)? As noted by the UST, that is the procedure required by LBR 9013-1(o).

(b) Debtors' undisclosed credit card debt. The debtors list five credit card accounts in their Schedule E/F, but claim to "not have" the amounts owed on those accounts, despite using them recently. See dkt. 1, PDF pp. 28-34. What efforts are the debtors taking to ascertain those amounts? What deadline should this court set for the debtors to file an amended Schedule E/F?

(c) Budget motion. The debtors' monthly expenses appear overstated: \$1,200 for utilities; \$425 for clothing; and \$1,600 for food (for a family of four, or three given that their eldest daughter appears to be attending college in Atlanta and no longer resides at home). In addition, the debtors appear to have omitted any expenses for real estate taxes and insurance (as distinguished from medical insurance), although perhaps those are included in their mortgage payments.

(d) July MOR. Why does the July Monthly Operating Report ("MOR") (dkt. 21) start with 7/25/16, omitting the first week of the debtor's bankruptcy case (filed on 7/18/16)?

(2) Deadlines/dates. This case was filed on 7/18/16.

(a) Bar date: 11/1/16 (due to be served 9/2/16, per dkt. 26).

(b) Plan/Disclosure Statement*: file by 11/29/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the

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CONT...

Richard Todd Hicks and Edith Armstrong Hicks

Chapter 11

U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 10/25/16 at 1:00 p.m. No status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Richard Todd Hicks

Represented By
Michael Jones

Joint Debtor(s):

Edith Armstrong Hicks

Represented By
Michael Jones

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, September 06, 2016

Hearing Room 1545

1:00 PM

2:15-27706 Macrina Garcia Atanasio-Maldonado and Roberto Andres

Chapter 11

#2.00 Hrg re: Second and final fee application for compensation for legal services rendered and reimbursement of expenses Incurred By Attorney For Chapter 11 Debtor-In-Possession (11 U.S.C. Secs. 330 And 331; F.R.B.P. P. 2016(A))

Docket 115

Tentative Ruling:

Grant, provided that payment may only be made by the debtors' son as stated in the declaration in support of the application (dkt. 120), or pursuant to further order of this court. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Macrina Garcia Atanasio-

Represented By

Anthony Obehi Egbase

Anthony Obehi Egbase

Joint Debtor(s):

Roberto Andres Maldonado-Quiroz

Represented By

Anthony Obehi Egbase

Anthony Obehi Egbase

**United States Bankruptcy Court
Central District of California
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Tuesday, September 06, 2016

Hearing Room 1545

1:00 PM

2:16-18455 Jose Luis Nunez Claver

Chapter 11

#3.00 Hrg re: Motion in individual chapter 11 case
for other authorizing use of cash collateral

Docket 20

Tentative Ruling:

Grant on an interim basis as provided below, **if** a legible copy of the debtor's evidence (dkt. 35) is filed prior to the hearing date and time, and such evidence is persuasive. Counsel is cautioned that continuing to file illegible documents in this or other cases may lead to sanctions. Appearances required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this court's final ruling.

The following are Judge Bason's standard conditions for (A) use of cash collateral or (B) postpetition financing by creditor(s) holding prepetition claim(s):

(1) Form of order.

(a) Any proposed order granting the motion shall include this tentative ruling as an exhibit, thereby adopting it as the written ruling of the court.

(b) Orders approving the use of cash collateral may be on local form F2081-1.1.ORDER.CASH.COLLATERAL.

(c) Rather than repeating any terms set forth in the motion or any stipulation, the proposed order must simply incorporate those terms by reference (including the docket number of the document) or simply grant the motion (except as modified in this tentative ruling or as otherwise directed by the court).

(2) Interim and final relief. Except as specifically provided in any order granting the motion, any initial relief shall be on an interim basis only, and shall be subject to modification at a final hearing to be noticed and held as follow:

Hearing: 10/11/16 at 1:00 p.m.

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1:00 PM

CONT...

Jose Luis Nunez Claver

Chapter 11

Deadline for debtor to serve and file notice of hearing: 9/9/16.

(3) Minimum adequate protection. In addition to the postpetition security interests that are automatically provided pursuant to 11 U.S.C. 552 (e.g., in traceable proceeds and profits), and subject to any more comprehensive protection that may be included in the motion or related papers, the debtor shall provide at least the following protection to any creditor with a security interest in the subject property, pursuant to 11 U.S.C. 361-364, as applicable:

(a) Insurance. The debtor is directed to maintain insurance on the property in a dollar amount at least equal to the debtor's good faith estimate of the value of such creditor's interest in any collateral that is typically insured, and such insurance shall name such creditor as an additional insured.

(b) Taxes. The debtor is directed to remain current on payments on account of postpetition real estate taxes (to the extent that real estate is part of the collateral).

(c) Disclosures/access. The debtor is directed to provide, upon such creditor's reasonable request, an accounting of postpetition rents, profits, and expenses, appropriate documentation of those things, and access for purposes of inspection or appraisal.

(d) Disputes. In the event of any disputes regarding the rulings herein, the parties are directed to meet and confer and, if they cannot resolve their disputes consensually, contact the chambers of Judge Bason to arrange a mutually convenient time for a telephonic hearing to address such disputes.

(4) Limitation on postpetition liens. In the event that the motion or related papers seek authority to grant postpetition liens to the creditor(s) *with respect to prepetition debts* any such liens shall be limited to the same validity, priority, and amount as prepetition liens. As used herein, the "validity, priority, and amount" or any similar phrase that may be used by the parties or the court is deemed to include the following:

(a) Extent. Such liens shall be limited to the *type* of collateral in which the creditor held a security interest as of the petition date, unless the order approving the motion not only states the new types of collateral but also includes a specific statement that such types of collateral are different from the prepetition collateral. For example, postpetition liens shall not extend to the proceeds of any avoidance actions, any recoveries under 11 U.S.C. 506 (c), or any "carveout" under 11 U.S.C. 552, unless the order approving the

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CONT... Jose Luis Nunez Claver

Chapter 11

motion specifically states otherwise.

(b) Priority. Such liens shall be limited to the same *priority* as the security interest held by the creditor as of the petition date.

(c) Dollar amount. Such liens shall be limited to the dollar amount needed to protect the creditor against diminution in the *value* of the secured claims as of the petition date.

(d) Enforceability. Such liens shall be limited to the extent that the creditor's security interests were duly *perfected* and *valid* as of the petition date, and to the extent that they are *unavoidable*.

(e) Automatic postpetition perfection. Any automatic perfection of such liens shall be subject to any applicable limitations regarding the Court's authority, jurisdiction, or due process.

(5) Automatic disapproval of insufficiently disclosed provisions. Any provision of the type listed in FRBP 4001(c)(1)(B) or in local form F4001-2 (e.g., cross-collateralization) or any waiver of the "equities of the case" exception in 11 U.S.C. 552(b)(2) shall be deemed automatically disapproved and excepted from any order granting the motion, notwithstanding any other provision of such order, unless either:

(a) such provision is specifically and prominently disclosed in the motion papers in a checklist (such as local form F4001-2), or alternatively

(b) such provision is specifically identified in any proposed order granting the motion, using terminology of the type used in FRBP 4001(c)(1)(B) or local form F4001-2 (e.g., any "cross-collateralization" that is not specifically identified as such is deemed to be disapproved).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Jose Luis Nunez Claver

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Tuesday, September 06, 2016

Hearing Room 1545

1:00 PM

2:16-18455 Jose Luis Nunez Claver

Chapter 11

#4.00 Hrg re: Motion in Individual Ch 11 Case for
Order approving a budget for the use of the
debtor's cash and postpetition income

Docket 21

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 5,
9/6/16 at 1:00 p.m.).

Party Information

Debtor(s):

Jose Luis Nunez Claver

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, September 06, 2016

Hearing Room 1545

1:00 PM

2:16-18455 Jose Luis Nunez Claver

Chapter 11

#5.00 Cont'd status conference re: Chapter 11 case
fr. 8/9/16

Docket 10

Tentative Ruling:

Tentative Ruling for 9/6/16:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Rental Income. The debtor's proposed budget (dkt. 21, PDF p.8) and cash collateral motion (dkt. 20, PDF p.5) reports rental income in the amount of \$1,500. However, the debtor's schedule I (dkt. 1, PDF p.26) reports that the rental income is only \$1,400. What is the correct amount of the debtor's rental income?

(2) Deadlines/dates. This case was filed on 6/24/16.

(a) Bar date: 10/28/2016 (timely served, dkt. 34).

(b) Plan/Disclosure Statement*: file by 11/29/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 11/1/16 at 1:00 p.m., No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/9/16:

Appearances required by counsel for the debtor and by the debtor(s)

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CONT... **Jose Luis Nunez Claver**
 themselves.

Chapter 11

(1) Current issues.

(a) Reliance on large family contribution. In the debtor's prior chapter 13 case (2:12-bk-19005-NB, dkt. 54) relief from the automatic stay was granted based on an alleged failure to make 17 mortgage payments; the debtor requested voluntary dismissal of that case; and it was dismissed with a 180-day bar to being a debtor in bankruptcy on 10/8/15. In this case the debtor relies on large family contributions (\$1,200 per month). See dkt. 1, Schedule I & J, PDF pp. 25-28, dkt. 20 (cash collateral motion), dkt. 21 (budget motion).

There are no declarations attesting to the family's willingness and ability to make these family contribution, let alone any supporting evidence such as bank account statements or paychecks with a budget showing sufficient disposable income. Is this case feasible? Has it been filed in good faith?

(b) Cash collateral. The Bankruptcy Code prohibits the use of cash collateral without court approval (or consent of the secured creditor, but typically that creditor will not consent without provisions that require court approval). See 11 U.S.C. 363(c). Debtors generally must use cash collateral very soon, for everything from paying utilities to adequate protection payments. For that reason, Judge Bason's posted procedures provide automatically shortened time. Why did counsel for the debtor self-calendar the motion (dkt. 20) for 9/6/16 when this case was filed on 6/24/16 (dkt.1)? Is the debtor violating the Bankruptcy Code?

(c) Lien stripping. The debtor's status report states that the debtor intends to file a lien-stripping motion but no such motion has been filed yet. Why not?

(2) Deadlines/dates. This case was filed on 6/24/16.

(a) Bar date: 10/28/16 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 11/29/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft

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CONT...

Jose Luis Nunez Claver

Chapter 11

Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 9/6/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Jose Luis Nunez Claver

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, September 06, 2016

Hearing Room 1545

1:00 PM

2:16-19232 Ronald Carvalho Leao

Chapter 11

#6.00 Hrg re: Motion in Individual Ch 11 Case for
Order approving a budget for the use of the
debtor's cash and postpetition income

Docket 18

Tentative Ruling:

See tentative ruling for chapter 11 status conference (9/6/16, 1:00 p.m.,
calendar no. 10).

Party Information

Debtor(s):

Ronald Carvalho Leao

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Neil Bason, Presiding
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Hearing Room 1545

1:00 PM

2:16-19232 Ronald Carvalho Leao

Chapter 11

#7.00 Hrg re: Motion in individual chapter 11 case
for order authorizing use of cash collateral
[11 U.S.C. section 363]

Docket 17

Tentative Ruling:

Grant on an interim basis as provided below. Appearances are not required
on 9/6/16.

Proposed order: Movant is directed to serve and lodge a proposed order via
LOU within 7 days after the hearing date, and attach a copy of this tentative
ruling, thereby incorporating it as this court's final ruling.

The following are Judge Bason's standard conditions for (A) use of cash
collateral or (B) postpetition financing by creditor(s) holding prepetition claim
(s):

(1) Form of order.

(a) Any proposed order granting the motion shall include this
tentative ruling as an exhibit, thereby adopting it as the written ruling of the
court.

(b) Orders approving the use of cash collateral may be on local
form F2081-1.1.ORDER.CASH.COLLATERAL.

(c) Rather than repeating any terms set forth in the motion or
any stipulation, the proposed order must simply incorporate those terms by
reference (including the docket number of the document) or simply grant the
motion (except as modified in this tentative ruling or as otherwise directed by
the court).

(2) Interim and final relief. Except as specifically provided in any order
granting the motion, any initial relief shall be on an interim basis only, and
shall be subject to modification at a final hearing to be noticed and held as
follows:

Hearing: 10/11/16 at 1:00 p.m.

Deadline for debtor to serve and file notice of hearing: 9/9/16.

(3) Minimum adequate protection. In addition to the postpetition

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Chapter 11

security interests that are automatically provided pursuant to 11 U.S.C. 552 (e.g., in traceable proceeds and profits), and subject to any more comprehensive protection that may be included in the motion or related papers, the debtor shall provide at least the following protection to any creditor with a security interest in the subject property, pursuant to 11 U.S.C. 361-364, as applicable:

(a) Insurance. The debtor is directed to maintain insurance on the property in a dollar amount at least equal to the debtor's good faith estimate of the value of such creditor's interest in any collateral that is typically insured, and such insurance shall name such creditor as an additional insured.

(b) Taxes. The debtor is directed to remain current on payments on account of postpetition real estate taxes (to the extent that real estate is part of the collateral).

(c) Disclosures/access. The debtor is directed to provide, upon such creditor's reasonable request, an accounting of postpetition rents, profits, and expenses, appropriate documentation of those things, and access for purposes of inspection or appraisal.

(d) Disputes. In the event of any disputes regarding the rulings herein, the parties are directed to meet and confer and, if they cannot resolve their disputes consensually, contact the chambers of Judge Bason to arrange a mutually convenient time for a telephonic hearing to address such disputes.

(4) Limitation on postpetition liens. In the event that the motion or related papers seek authority to grant postpetition liens to the creditor(s) *with respect to prepetition debts* any such liens shall be limited to the same validity, priority, and amount as prepetition liens. As used herein, the "validity, priority, and amount" or any similar phrase that may be used by the parties or the court is deemed to include the following:

(a) Extent. Such liens shall be limited to the *type* of collateral in which the creditor held a security interest as of the petition date, unless the order approving the motion not only states the new types of collateral but also includes a specific statement that such types of collateral are different from the prepetition collateral. For example, postpetition liens shall not extend to the proceeds of any avoidance actions, any recoveries under 11 U.S.C. 506 (c), or any "carveout" under 11 U.S.C. 552, unless the order approving the motion specifically states otherwise.

(b) Priority. Such liens shall be limited to the same *priority* as

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Chapter 11

the security interest held by the creditor as of the petition date.

(c) Dollar amount. Such liens shall be limited to the dollar amount needed to protect the creditor against diminution in the *value* of the secured claims as of the petition date.

(d) Enforceability. Such liens shall be limited to the extent that the creditor's security interests were duly *perfected* and *valid* as of the petition date, and to the extent that they are *unavoidable*.

(e) Automatic postpetition perfection. Any automatic perfection of such liens shall be subject to any applicable limitations regarding the Court's authority, jurisdiction, or due process.

(5) Automatic disapproval of insufficiently disclosed provisions. Any provision of the type listed in FRBP 4001(c)(1)(B) or in local form F4001-2 (e.g., cross-collateralization) or any waiver of the "equities of the case" exception in 11 U.S.C. 552(b)(2) shall be deemed automatically disapproved and excepted from any order granting the motion, notwithstanding any other provision of such order, unless either:

(a) such provision is specifically and prominently disclosed in the motion papers in a checklist (such as local form F4001-2), or alternatively

(b) such provision is specifically identified in any proposed order granting the motion, using terminology of the type used in FRBP 4001(c)(1)(B) or local form F4001-2 (e.g., any "cross-collateralization" that is not specifically identified as such is deemed to be disapproved).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Ronald Carvalho Leao

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
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1:00 PM

2:16-19232 Ronald Carvalho Leao

Chapter 11

#8.00 Hrg re: Motion for order determining value
of collateral [11 U.S.C. section 506(a), FRBP 3012]

Docket 25

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Ronald Carvalho Leao

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
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1:00 PM

2:16-19232 Ronald Carvalho Leao

Chapter 11

#9.00 Hrg re: Motion to avoid junior lien on principal residence
with creditor JP Morgan Chase and Trojan Capital Investments, LLC
[11 U.S.C. section 506 (d)]

Docket 24

Tentative Ruling:

Continue to 10/11/16 at 1:00 p.m. to address the following issues.
Appearances are not required on 9/6/16.

Reasons:

(1) Appraisal; date of valuation

The junior lienholder has requested (dkt. 31) additional time to obtain an appraisal. The debtor is directed to provide reasonable access for that purpose. The junior lienholder is directed to file and serve the appraisal at least two weeks before the continued hearing. Note: Judge Bason's tentative ruling is to require valuations *at or near the petition date*. See *In re Gutierrez*, 503 B.R. 458 (Bankr. C.D. Cal. 2013).

At the continued hearing the parties should address how they propose to resolve their disputes - e.g., (i) with an evidentiary hearing; (ii) with a court ruling based solely on the written record (to save costs, if all parties consent), (iii) through mediation, or (iv) through appointment of an appraiser (jointly selected by the parties/their appraisers) as the court's own expert under FRE 706.

(2) Other issues in opposition

The parties are directed to meet and confer regarding informal discovery and other means to address the issues raised in the opposition.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Ronald Carvalho Leao

Represented By

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Ronald Carvalho Leao

Onyinye N Anyama

Chapter 11

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2:16-19232 Ronald Carvalho Leao

Chapter 11

#10.00 Cont'd status conference re: Chapter 11 case
fr. 8/9/16

Docket 7

Tentative Ruling:

Tentative Ruling for 9/6/16:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Budget motion. The debtor's expenses set forth in his proposed budget (dkt. 18, PDF p. 8) for his home phone (\$250) and his cell phone (\$320) seem unusually high, particularly for a family with no disclosed dependents. Even assuming that these costs include internet service, this court is concerned that the debtor is paying too much for these services. Why are the debtor's communications costs so high?

(b) Unauthorized payment of prepetition debt? The debtor's opposition (dkt. 48, p.3:1-5) to the UST's motion to dismiss (dkt. 38) appears to state that the debtor paid his bank prepetition debts (overdrafts). If so, what remedy should this court impose for that unauthorized payment of one creditor ahead of others?

(c) UST compliance? Is the debtor current on quarterly UST fees? Have other compliance issues been adequately addressed?

(2) Deadlines/dates. This case was filed on 7/12/16.

(a) Bar date: 10/28/16 (timely served, dkt. 32).

(b) Plan/Disclosure Statement*: file by 11/29/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but,

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whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 9/13/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/9/16:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues

(a) Cash collateral. The Bankruptcy Code prohibits the use of cash collateral without court approval (or consent of the secured creditor, but typically that creditor will not consent without provisions that require court approval). See 11 U.S.C. 363(c). Debtors generally must use cash collateral very soon, for everything from paying utilities to adequate protection payments. For that reason, Judge Bason's posted procedures provide automatically shortened time. Why did counsel for the debtor self-calendar the motion (dkt. 17) for 9/6/16 when this case was filed on 7/12/16? Is the debtor violating the Bankruptcy Code?

(b) Lease of Theresa Street Property. In his Schedule G, the debtor attests that the lessee for the Theresa Street property is under a one year lease. See dkt. 1, PDF p. 36. In the case status report, the debtor claims the lease is month to month. See dkt. 20, PDF p. 5. Which is it?

(2) Deadlines/dates. This case was filed on 7/12/16.

(a) Bar date: 10/28/16 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 11/29/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a

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later time).

(c) Continued status conference: 9/6/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Ronald Carvalho Leao

Represented By
Onyinye N Anyama

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#11.00 Hrg re: Approval of Disclosure Statement and
Confirmation of Debtor's Chapter 11 Plan

Docket 1

Tentative Ruling:

See tentative ruling for chapter 11 status conference (9/6/16, 1:00 p.m.,
calendar no. 12).

Party Information

Debtor(s):

Jeong Hee Choi

Represented By
Frank J Alvarado

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#12.00 Cont'd Status Conference re: Chapter 11 Case
fr. 10/27/15, 11/3/15, 12/15/15, 1/19/16, 2/23/16,
4/5/16, 6/7/16

Docket 1

Tentative Ruling:

Tentative Ruling for 9/6/16:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues (whether to approve the disclosure statement, dkt. 126, and confirm the proposed plan, dkt. 125):

(a) Service of voting package? The proof of service (dkt. 137) lists very few parties in interest. Were all creditors served?

(b) Lack of favorable votes? The ballot summary (dkt. 143) is not accompanied by copies of ballots, and in any event it appears that no class accepted the plan by the requisite majorities (11 U.S.C. 1126(c)) although the debtor makes an opaque reference to the possibility of another favorable vote (after the deadline?). Therefore the debtor does not appear to qualify for conformation under 1129(a) or (b). See 11 U.S.C. 1129(a)(8) & (10) and 1129(b).

(c) Objection by BONY (dkt. 141). The tentative ruling is that BONY would be entitled to a 5% interest rate if it had not made its election under 11 U.S.C. 1111(b), but having made that election it is entitled to (i) the full dollar amount of its claim over time with (ii) a present value equal to the value of its collateral, and with a larger number of dollars being paid it may be that the interest rate can be reduced, not increased (although that depends on how long the debtor proposes to make payments, and other factors). Balloon payments are not outright prohibited, but they tend to increase the risk and may require a higher interest rate.

(d) Feasibility. The debtor asserts that \$30,000 will be contributed to fund payments on the effective date. What is the evidence of that? The debtor's budget is very thin, which calls into question the feasibility of the plan

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(11 U.S.C. 1129(a)(11)). These issues can be addressed, if relevant, after an amended plan and disclosure statement, addressing BONY's section 1111(b) election, has been filed - if appropriate, this court can set an evidentiary hearing and associated deadlines.

(2) Deadlines/dates. This case was filed on 9/21/15.

(a) Bar date: 1/8/16 (timely served, dkt. 81).

(b) Plan/Disclosure Statement*: 9/20/16 deadline to file (but NOT serve) amended draft plan and disclosure statement in view of BONY's section 1111(b) election.

(c) Continued status conference: 10/4/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/7/16:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues:

(a) Amended Plan/Disclosure Statement (timely filed 4/12/16, dkt. 125, 126). It appears that the debtor has addressed the issues previously noted in this Court's 4/5/16 tentative (included below).

(2) Deadlines/dates. This case was filed on 9/21/15.

(a) Bar date: 1/8/16 (timely served, dkt. 81).

(b) Plan/Disclosure Statement*: this court has reviewed the proposed Plan (dkt. 125) and Disclosure Statement (dkt. 126) and anticipates setting the following deadlines: 6/10/16 for the plan proponent to lodge Judge Bason's form of order authorizing service of the relevant documents and setting deadlines; 9/6/16 at 1:00 p.m. for the combined hearing on approval of the

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Disclosure Statement and confirmation of the Plan (with the court to set typical deadlines for objections etc.).

(c) Continued status conference: 9/6/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 4/5/16:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues:

(a) Plan/Disclosure Statement (3/4/16 (timely filed, dkt. 122, 123).

(i) Monthly income. The debtor's cash flow projections result in a negative balance of \$234,553.19 (see dkt. 122, at PDF p. 7). The net income of \$6 listed by the debtor does not make sense. The debtor's proposed monthly plan payment is comprised of two mortgage payments of \$3,098.41 and \$1,504.30 to BNY Mellon, and payments to general unsecured creditors of \$629.62, for a total of \$5,232.33 (*id.*). However, the debtor appears to have double-counted the mortgage payments: first, in the debtor's calculation of total monthly income, since the debtor's schedules I and J already take into account the rental income from the two properties, and then again in the debtor's calculation of the proposed payment plan.

(ii) New value. The \$30,000 Church Contribution should be listed in Exhibit C.

(iii) Two periods. Why does the debtor's plan include two periods (A and B) that seem to propose the same treatment of creditors? (see dkt. 122, at PDF p. 7).

(b) MORs. The debtor's most recent monthly operating report (dkt. 121) attempts to address the issues raised in this Court's previous tentative ruling (e.g., dkt. 115 at PDF p.61, where the debtor appears to have listed the

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total balance owed, instead of listing monthly mortgage amounts, the number of unpaid monthly payments, and the total postpetition amount unpaid). The debtor appears to have corrected this issue (see dkt. 121, PDF p.16). However, the secondary issue was that the debtor had not revealed the monthly amount owed to PNC Bank N.A. - she stated "Disputed" instead of a monthly amount). The debtor has now omitted PNC Bank N.A. from this list (*id.*). Does the debtor owe any monthly amount to PNC Bank N.A.?

(2) Deadlines/dates. This case was filed on 9/21/15.

(a) Bar date: 1/8/16 (timely served, dkt. 81).

(b) Plan/Disclosure Statement*: file amended documents by 4/12/16.

(DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 6/7/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/23/16:

Continue to 4/5/16 at 1:00 p.m. Appearances are not required on 2/23/16.

Reasons:

(1) MORs. The debtor's supplemented and most recent monthly operating reports (dkt. 108, 112, 113, 115) are still needlessly confusing and probably incorrect (e.g., dkt. 115 at PDF p.61 is supposed to list monthly mortgage amounts, the number of unpaid monthly payments, and the total postpetition amount unpaid; but instead the debtor appears to have listed the total balance owed; and the debtor also has not revealed the monthly amount owed to PNC Bank N.A. - she states "Disputed" instead of a monthly amount). Nevertheless, this Court presumes that the debtor's counsel will continue working with the office of the U.S. Trustee to assure that future MORs are correct and less confusing.

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(2) Deadlines/dates. This case was filed on 9/21/15.

(a) Bar date: 1/8/16 (timely served, dkt. 81).

(b) Plan/Disclosure Statement*: In view of the stipulation regarding the value of the Cypress property (dkt. 116), it appears that the debtor may be able to propose a plan of reorganization. Accordingly, the tentative ruling is to set a deadline of 3/4/16 for the debtor to file a draft plan and a draft disclosure statement, using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time). If counsel for the debtor believes that it is premature to prepare and file a draft plan and draft disclosure statement, then counsel should notify the U.S. Trustee and this Court of an intent to contest this tentative ruling, and then appear at this status conference and address that issue.

(c) Continued status conference: (See the date at the start of this tentative ruling.) No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/19/16:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Monthly expenditure reporting. The debtor's monthly expenditure reporting continues to be problematic. In the debtor's October MOR, the debtor lists various disbursements totaling \$555 (see dkt. 103, PDF p. 26, repeated at PDF p. 64), but also refers to "petty cash" expenditures of \$497 (*id.* at PDF p. 26) and \$447 (*id.* at PDF p. 64). Where are those figures coming from? What was the nature of those petty cash expenditures?

Additionally, the expenditures reported by the debtor appear to deviate

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from the debtor's court-approved budget (dkt. 6, 76). The budget reported expenses of \$100/mo. for rent and \$110/mo. for Medicare, neither of which are appearing on the debtor's MORs. Conversely, the budget did not provide for \$50/mo. in religious donations, which the debtor appears to be paying every month. Finally, although the debtor reported in the budget that her monthly mortgage payments to Nationstar and Shell Point included costs for maintenance and insurance (dkt. 6, PDF p. 9), based upon her MOR reporting it appears that those costs are in fact separate from her mortgage payments. See dkt. 104, PDF p. 49 (separate home insurance payment of \$75.89); p. 57 ("home expenditures" of \$100 listed under petty cash transactions).

Finally, although the debtor has opened cash collateral bank accounts for each of her real properties, it appears the debtor is continuing to use her general DIP account for all receipts and disbursements, including those related to her real properties. Why is the debtor not segregating her cash collateral funds in their designated accounts?

How can the debtor propose a feasible plan of reorganization in these circumstances? Why should this court not convert or dismiss this case?

(2) Deadlines/dates. This case was filed on 9/21/15. If this court is persuaded not to convert or dismiss this case:

- (a) Bar date: 1/8/16 (timely served, dkt. 81).
- (b) Plan/Disclosure Statement*: file by 1/29/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).
- (c) Continued status conference: 2/23/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 12/15/15:

Appearances required by counsel for the debtor but telephonic appearances

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are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(A) Monthly expenditure reporting. The debtor's October monthly operating report disclosed the debtor's monthly expenditures in one lump sum (\$1,052), describing them only as "personal expenses." See dkt. 93, PDF p. 26. Reporting the debtor's monthly expenses in this fashion is inadequate, as it does not allow the court or the United States Trustee's office to ascertain whether the debtor is complying with the court-approved budget (dkt. 6, 76).

(2) Deadlines/dates. This case was filed on 9/21/15.

(a) Bar date: 1/8/16 (timely served, dkt. 81).

(b) Plan/Disclosure Statement*: file by 1/29/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 1/19/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/3/15:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues.

(a) UST motion to dismiss/compliance. Has the debtor complied with the requirements of the Office of the United States Trustee?

(2) Deadlines/dates. This case was filed on 9/21/15.

(a) Bar date: 1/8/16 (debtor to serve bar date order no later than 11/3/15).

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(b) Plan/Disclosure Statement*: file by 1/29/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 12/15/15 at 1:00 p.m., no status report required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 10/27/15:

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues. The debtor is directed to serve and lodge proposed orders on the following motions via LOU within 7 days after the hearing date.

(a) Utility motion. Grant on a final basis on the same terms as the interim approval (dkt. 65).

(c) Cash collateral (dkt.9) and budget (dkt.6) motions. Grant the motions and approve the budgets proposed by the debtor (e.g., dkt. 6, PDF p. 9), on a final basis, but subject to adjustment as appropriate (e.g., upon a proper motion by a lienholder for relief from the automatic stay this court might - or might not - be persuaded to increase adequate protection payments).

(2) Deadlines/dates. This case was filed on 9/21/15.

(a) Bar date: 1/8/16 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 1/29/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 11/3/15 at 11:00 a.m., no status report required.

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*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 10/27/15:

This court anticipates posting a tentative ruling at a later time.

Party Information

Debtor(s):

Jeong Hee Choi

Represented By
Frank J Alvarado

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2:15-28443 Cloudbreak Entertainment, Inc.

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#13.00 Cont'd Status Conference re: Chapter 11 Case
fr. 01/05/16, 1/19/16, 2/2/16, 2/23/16, 4/12/16

Docket 7

Tentative Ruling:

Tentative Ruling for 9/6/16:

Continue to 12/13/16 at 1:00 p.m. based on the debtor's current status report (dkt. 112). Appearances are not required on 9/6/16.

The debtor is directed to file a brief status report two weeks before the continued status conference.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 4/12/16:

Continue to 9/6/16 at 11:00 a.m. to address the following issues.
Appearances are not required on 4/12/16.

Based on the statements made in the debtor's status report (dkt. 92), this Court continues this status conference as set forth above. The debtor shall file a brief status report two weeks before the continued status conference.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 2/2/16:

Continue to 2/23/16 at 2:00 p.m. unless any opposition/response to employment or recusal are filed prior to 1/30/16. Appearances are not required on 2/2/16.

Reasons: At the hearing on 1/19/16, this court stated that the status

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CONT... Cloudbreak Entertainment, Inc.

Chapter 11

conference would be continued without further hearing if no oppositions/responses to employment or recusal were received by the deadline for such things, which is 1/29/16. As of the preparation of this tentative ruling (on 1/29/16) no such documents have yet been filed.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Revised Tentative Ruling for 1/19/16:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Key documents reviewed: Motion for relief from automatic stay (dkt. 11), the debtor's opposition (dkt. 33), and the movant's reply (dkt. 46); and the debtor's application to employ Browne George Ross LLP as special counsel under 11 U.S.C. 327(e) and supporting papers (dkt. 26-30, 44, 45).

(1) Current issues.

(a) Background. Claimant Britton's motion for relief from the automatic stay (dkt. 11) seeks to modify the automatic stay to liquidate the parties' claims in the underlying State Court action (*Britton v. Riggs*, LA Superior Ct. No. BC 496298). Just before trial was set to commence, the debtor filed this bankruptcy case, and trial has now been continued to 2/10/16. The debtor has filed an application (dkt. 26) to employ its existing attorneys in the State Court action as special counsel.

In view of the apparent urgency of these matters, this Bankruptcy Court issued an order raising a number of its initial concerns (dkt. 35), held a preliminary hearing on 1/8/16, and directed the debtor to serve a supplemental notice addressing certain issues. In addition, when Judge Bason's law clerk learned of certain attenuated connections between him and the parties in this case, those matters were disclosed on the record (dkt. 39), and the debtor was directed to serve those disclosures on all parties in interest.

The debtor complied with these notice requirements (see dkt. 44, 43, 45) and the period for any response expires on 1/29/16 (fixed date in dkt. 39)

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as to this court's disclosures; and service on 1/11/16 + 14 days' notice + 3 days for service via U.S. mail = 1/29/16 as to the employment application). As of the time when this tentative ruling has been prepared (1/18/16) no response on either matter appears on the docket.

(b) Relief from the automatic stay. The tentative ruling is to modify the automatic stay as follows, effective immediately upon (i) entry of an order of this court granting the employment application (so that the debtor can defend and prosecute its claims in the State Court action) and (ii) resolution of any request to be heard regarding recusal. Specifically, the automatic stay would be modified to permit litigation of the State court action insofar as *liquidating* claims by Mr. Britton against the debtor and its principal, Mr. Riggs, as well as liquidating any counterclaims, including all subsidiary disputes such as whether the statute of limitations should be tolled and any alter ego issues, but not to permit *enforcement* of any judgment against any property in which the debtor asserts an interest absent further order of this Bankruptcy Court.

Judge Bason is not persuaded by the debtor's argument that the statute of limitations issue should be addressed by this Bankruptcy Court before any State Court litigation is permitted to continue. The principles underlying the *Rooker Feldman* doctrine (that this Bankruptcy Court may not act as essentially an appellate court for State Court determinations), as well as comity, a respect for the State Court's determination of these issues, conservation of judicial resources, the avoidance of forum shopping, and not permitting a party to obtain "two bites at the apple" all weigh against deciding the statute of limitations issues here. The State Court issued a detailed tentative ruling (dkt. 46-1, Ex.A, pp.23-26) regarding the statute of limitations issues, including its conclusion that those issues could not be determined as a matter of law because a reasonable trier of fact "may well determine that the delay in filing the action was due to the Defendants' fraud or other misconduct such that Defendants should be estopped from asserting the statute of limitations," and the State Court apparently adopted that tentative ruling when it denied the defendants' motion for summary judgment and declined to address the statute of limitations issues before trial. Judge Bason is not persuaded that this Bankruptcy Court can or should revisit that determination.

As to any claims that are truly alter ego claims (as distinguished from fraudulent transfer claims or other avoidance actions that belong to this

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bankruptcy estate), the tentative ruling is that under the *Ahcom* decision (623 F.3d 1248 (9th Cir. 2010)), any such claims do not belong to the bankruptcy estate and, therefore, the automatic stay would not prevent claimant Mr. Britton from seeking to establish and pursue any alter ego claims against Mr. Riggs. Alternatively, the tentative ruling is to modify the automatic stay (if it applied) to permit such true alter ego claims to be litigated (when and if the State Court determines that they should be) because if those issues turn out to be relevant then they will have to be litigated anyway, and the State Court would be the proper forum in which to litigate them. To the extent that the debtor seeks to stay (enjoin) any such alter ego claims against Mr. Riggs in this bankruptcy case, such an injunction would have to be the subject of a separate adversary proceeding. See, e.g., *In re Excel Innovations, Inc.*, 502 F.3d 1086 (9th Cir. 2007).

(c) Employment of special litigation counsel. The tentative ruling is to conditionally approve employment of special litigation counsel for the reasons stated at the preliminary hearing on 1/8/16 and in the application (dkt. 26) and debtor's supplemental disclosures (dkt. 44). The condition is that no order approving such employment should be lodged until after the period for responses to such application or to this court's disclosures has expired (on 1/29/16), and of course if any such response is filed then this court will consider such responses (at a hearing as set forth below).

The potential for alter ego claims does not appear to create any cognizable conflict, at least at this stage of the litigation. Although it could be argued that there would be a conflict because any recovery that Mr. Britton could obtain from Mr. Riggs would *decrease* his claim against the debtor, and therefore theoretically *benefit* the debtor, it seems more likely at this stage that both Mr. Riggs and the debtor have a unified interest in contesting any asserted grounds for alter ego liability (i) so as to assure that Mr. Riggs devotes his energies to the debtor's future success and ability to pay its creditors, and (ii) so as to attempt to assure that there is a level playing field among the debtor's creditors (which, arguably, there would not be if one creditor - Mr. Britton - could pursue alter ego recoveries before other creditors could seek to do the same).

Of course, counsel for the debtor (both general and special counsel) and Mr. Riggs himself will need to monitor the situation continually. If a conflict or potential conflict does develop, they will need to file appropriate

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CONT... Cloudbreak Entertainment, Inc.

Chapter 11

disclosures and/or seek a supplemental ruling from this court regarding the terms of any continued employment of special counsel.

(d) Tentative hearing. If any response is filed to either the employment application or this court's disclosures, then a hearing will take place on 2/2/16 at 2:00 p.m. to address those things. If there is any such response, the debtor must notify chambers so that the matter may be added to this court's calendar for that day.

(2) Deadlines/dates. This case was filed on 12/1/15.

(a) Bar date: Bar date: 2/8/16 (timely served, dkt. 19 & 25).

(b) Plan/Disclosure Statement*: file by 7/1/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the next status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 2/2/16 at 2:00 p.m. (no written status report required; telephonic appearances permitted provided that parties comply with posted procedures for same).

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/19/16:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 1/5/16:

Appearances required by counsel for the debtor and by the principal of the debtor.

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(1) Current issues.

(a) Affiliated businesses. The debtor's status report (dkt. 20, p.8:17-9:3) requests that the debtor be excused from providing financial information concerning affiliates in both the status report and monthly operating reports. The tentative ruling is to grant that request.

(b) Service of status report. This court's form status report must be served on, *inter alia*, all of the debtor's secured creditors and the top 20 largest general unsecured creditors. It appears that there are no secured creditors, but that unsecured creditors were not served (see dkt. 20, p. 10). The tentative ruling is to direct the debtor, no later than 1/6/16, to serve all parties in interest with a copy of the status report and this tentative ruling, and then parties in interest may, if they choose, raise any appropriate issues at future status conferences.

(c) Plan and disclosure statement. The debtor has suggested (dkt. 20, p.4:20-23) a deadline of 4/30/16 to file initial drafts. The debtor should be prepared to address the associated procedures, including the local form plan and whether that deadline is consistent with the pending litigation with creditor Layne Leslie Britton (dkt. 11), currently set for trial in State court for 2/10/16.

(2) Deadlines/dates. This case was filed on 12/1/15.

(a) Bar date: Bar date: 2/8/16 (timely served, dkt. 19 & 25).

(b) Plan/Disclosure Statement*: file by 4/30/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the next status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 1/19/16 at 1:00 p.m. (no written status report required; telephonic appearances permitted provided that parties comply with posted procedures for same).

*Warning: special procedures apply (see order setting initial status conference).

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If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Cloudbreak Entertainment, Inc.

Represented By
Jeremy V Richards

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2:16-12012 Rescue One Ambulance

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#14.00 Cont'd status conference re: Chapter 11 case
fr. 5/3/16, 7/19/16, 8/9/16

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Tentative Ruling:

Tentative Ruling for 9/6/16:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Dismissal or conversion? The debtor's amended/new monthly operating reports ("MORs") (dkt. 180-186) are not in proper format (they are blank and/or show \$0 everywhere) and the attached financial statements appear to show ongoing and substantial losses (and the records filed in support of the May 2016 MOR appear to be incomplete). Is dismissal or conversion of this case appropriate?

(2) Deadlines/dates. Continue to 10/11/16 at 1:00 p.m. if this case is not dismissed or converted. No written status report is required.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/9/16:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Payroll and Tax Bank Accounts. Why does the debtor have negative ending balances in both its payroll (-\$683) and tax (-\$23.56) bank accounts, causing it to incur numerous charges for insufficient funds totaling

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over \$700? See June MOR, dkt. 166, PDF pp. 35, 37, 49.

(2) Deadlines/dates. This case was filed on 2/18/16.

(a) Bar date: 7/20/16 (timely served, dkt. 98).

(b) Plan/Disclosure Statement*: file by 9/17/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the next status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 10/11/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/19/16:

Continue to 8/9/16 at 1:00 p.m. Appearances are not required on 7/19/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 5/3/16:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Cash collateral motion (dkt. 13), and motion for relief from

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automatic stay (dkt. 28). This Court has issued orders approving stipulations with the IRS (dkt. 86, 88) and AFS/IBEX (dkt. 81, 82) and otherwise addressing the use of cash collateral and setoffs (dkt. 25, 33), and has authorized the payment of insurance premiums as adequate protection (dkt. 59, 67, 75), and the debtor's latest budget declaration (dkt. 85) now appears to provide for income taxes and professionals (accountant, attorneys, etc.), as well as other ordinary and necessary items that were previously omitted from the budget, all of which appears to resolve the debtor's motion for use of cash collateral (dkt. 13) and the IRS' motion for relief from the automatic stay (see dkt. 28, 56, 65, 68, 69, 70). To the extent that the debtor is using the cash collateral of the EDD, or any other person who may assert an interest in the debtor's cash, notice appears to have been sufficient for present purposes and the existing orders appear to provide adequate protection of any such interests.

For all of these reasons, the tentative ruling is not to set any continued hearing on these motions, and instead any future extension of the authorization to use cash collateral can be made (i) on the existing terms, by lodging a proposed order containing the signature of the IRS' counsel approving it as to form or, alternatively, (ii) for any proposed changes in terms, pursuant to a further stipulation with the IRS (subject to approval by this Court) that need only be served (at least 7 days prior to the expiration of the latest period for authorized use of cash collateral) on the US Trustee and not any other parties in interest unless they request special notice.

(b) Rejection of lease? Has the debtor reached any agreement with the lessor of its prior premises regarding termination of the lease, or of the arrangement for month to month occupancy? Will the debtor be seeking to reject any lease (see Status Report, dkt. 50, item 7 at p. 6:13)?

(c) Application for Compensation (dkt. 91). The tentative ruling is to approve the fees as reduced by the stipulation with the United States Trustee (dkt. 115; see also dkt. 95, 96, 108, 113), in the amount of \$29,779.50.

(d) MORs. This Court has no issues to raise sua sponte with respect to the second monthly operating report (dkt. 107, "MOR"), but this Court notes that another MOR filed in this case (dkt. 111) actually pertains to a different case, so the debtor should file a notice of errata regarding the latter MOR.

(2) Deadlines/dates. This case was filed on 2/18/16.

(a) Bar date: 7/20/16 (timely served, dkt. 98).

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(b) Plan/Disclosure Statement*: file by 7/19/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the next status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 7/19/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 3/22/16:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Budget (supplement at dkt. 42) The "Office Rent" line item states, "Debtor's relocation is necessary to avoid crowding issues and complaints by the City and the landlord" and a footnote states in part, "Current landlord will be increasing rent by 150% every month." The budget reflects an increase from \$2,100 for March to \$7,000 per month for this line item for April and later months.

Is such an increase truly necessary and appropriate for a debtor in bankruptcy? Has the debtor found a suitable location? Is the debtor asserting that any such change is anything other than a transaction out of the ordinary course (11 U.S.C. 363(b)) requiring notice and a hearing and the approval of this Court?

In addition, the budget does not appear to provide for income taxes or

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professionals (accountant, attorneys, etc.). Why not? Are there any other ordinary and necessary items that are omitted from the budget? If so, why?

(b) Status Report (dkt.50) Under item 12, the debtor asserts that it is not a "health care business" and therefore a health care ombudsman is not required. At the last status conference, however, counsel for the United States Trustee suggested that one probably is required. Why does the debtor disagree?

(c) Relief from Stay Motion (dkt. 28), cash collateral motion (dkt. 13), stipulation with IRS (dkt. 59), and proposed order (dkt. 60). The proposed stipulation would provide a replacement lien on all of the debtor's assets, which arguably could be read to include avoidance actions, any claims under 11 U.S.C. 506(c), and the like. The tentative ruling is not to include those things, and to limit the replacement lien such that it is no more than the priority and other characteristics of the existing lien (pursuant to Judge Bason's standard terms). In addition, to the extent that the stipulation changes the terms on which the debtor proposes to use cash collateral, and what the debtor will give up in return, have parties in interest been provided adequate notice and an opportunity for hearing pursuant to Rule 4001?

(d) Loan to fund payroll. Did Debtor enter into no-interest unsecured loan to make payroll, as contemplated at a prior hearing? Has this been documented?

(2) Deadlines/dates. This case was filed on 2/18/16.

(a) Bar date: 6/20/16 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 7/19/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the next status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for

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such objections are established).

(c) Continued status conference: 5/3/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 3/22/16:

This court anticipates posting a tentative ruling at a later time.

Party Information

Debtor(s):

Rescue One Ambulance

Represented By
Michael Jay Berger

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2:16-16363 Lake Mathews Mineral Properties, LTD

Chapter 11

#15.00 Hrg re: Motion for relief from stay [NA]

PECAS, LLC
vs
DEBTOR

Docket 57

***** VACATED *** REASON: This matter is scheduled to be heard on
09/27/16 at 10:00 a.m. per parties' Stipulation (dkt. 67)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lake Mathews Mineral Properties,

Represented By
Michael Jay Berger

Movant(s):

PECAS, LLC.

Represented By
Cassandra J Richey

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2:16-16363 Lake Mathews Mineral Properties, LTD

Chapter 11

#16.00 Cont'd status conference re: Chapter 11 Case
fr. 6/21/16, 7/19/16

Docket 6

***** VACATED *** REASON: This matter is scheduled to be heard on
09/27/16 at 1:00 p.m. per parties' Stipulation (dkt. 71)**

Tentative Ruling:

Party Information

Debtor(s):

Lake Mathews Mineral Properties,

Represented By
Michael Jay Berger

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2:16-14355 MEDomics, LLC

Chapter 11

#17.00 Cont'd hrg re: Motion for relief from stay [NA]
fr. 5/31/16, 7/19/16, 08/02/16

WELLS FARGO BANK, NATIONAL ASSOCIATION
vs
DEBTOR

Docket 61

Tentative Ruling:

Tentative Ruleing for 9/6/2016:

See tentative ruling for chapter 11 status conference (9/6/16, 1:00 p.m., calendar no. 18).

Tentative Ruling for 8/2/16:

See tentative ruling for chapter 11 status conference (8/2/16, 2:00 p.m., calendar no. 9).

Tentative Ruling for 5/31/16:

Continue to 7/19/16 at 1:00 p.m. to address the following issues.

Appearances are not required on 5/31/16.

Key documents reviewed: motion of Wells Fargo Bank, N.A. ("Wells Fargo") for relief from automatic stay (dkt. 61); debtor's response (dkt. 72); Wells Fargo's reply (dkt. 77, at p.); and joinder of Dr. Sommer (debtor's principal and, apparently, its major creditor and landlord) (dkt. 78).

Reasons:

(1) Wells Fargo apparently seeks relief primarily against Dr. Sommers, but also against the debtor. Wells Fargo contends that it seeks to recover primarily from Dr. Sommers, who owns the subject property, and Wells Fargo further agrees that the stay will remain in effect as to enforcement of any judgment against this debtor (retaining the right to file a proof of claim, if appropriate) (see dkt. 61, p. 3, para. 4.b.). It appears, however, that any relief against Dr. Sommers is in effect relief against the debtor, or at least it has the

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potential to have a very substantial negative impact against the debtor.

According to the debtor's bankruptcy schedule G (dkt. 29, PDF p. 22-23), it leases the property. It is unclear whether foreclosure against Dr. Sommers would wipe out the debtor's leasehold interest, but that might well be so, and then the debtor's business might well collapse. Moreover, conceivably the debtor would have no right to continue its occupancy even long enough to allow it to find/lease new premises, move out equipment, sell its business or equipment to a purchaser, or otherwise protect its value, and that would harm all other creditors, employees, and other parties in interest. See *In re Perl*, 811 F.3d 1120 (9th Cir. 2016).

This Court expresses no opinion whether those consequences necessarily would flow from granting Wells Fargo the relief that it requests from the automatic stay; but the point is that Wells Fargo has not addressed these issues, and on the present record its acts that are nominally only against Dr. Sommers apparently have the potential to harm severely the interests of other creditors. That weighs against granting relief to Wells Fargo, provided that its interests can be adequately protected within the meaning of 11 U.S.C. 361 & 362(d)(1).

Adequate protection in this case appears to rest largely on the debtor's ability to maintain and grow its value as a viable business, and for those purposes it needs a space in which to operate. Wells Fargo has not presented any evidence that the value of the debtor's business is declining.

To the contrary, the only evidence before this Court (albeit mostly presented on different motions) suggests that the debtor may have a viable strategy to reorganize its finances and exit from bankruptcy. Presumably, as in most cases, the best proof of whether that is so will be the debtor's postpetition performance, with greater leeway being afforded to the debtor for a short period at the start of the case.

Accordingly, on the present record it appears that Wells Fargo is adequately protected, and that it is in the best interests of the bankruptcy estate and other creditors not to grant relief from the automatic stay at this time.

The remainder of this tentative ruling addresses whether there are additional considerations that weigh either in favor of relief from the automatic stay or against it. There are considerations on both sides.

(2) Prepetition agreement not to oppose relief from the automatic stay.

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The debtor analogizes to prepetition agreements to waive the bankruptcy discharge, or not to file a bankruptcy petition at all, and Wells Fargo points out that those are not the actual situation. Neither party cites to relevant reported decisions, which generally disfavor prepetition agreements to relief from the automatic stay, but which also sometimes weigh them to some extent in favor of granting such relief, especially when the debtor (and other creditors) have obtained benefits in exchange for such waivers. See, e.g., *Matter of Pease*, 195 B.R. 431, 433 (Bankr. D. Neb. 1996) (prepetition waiver unenforceable on public policy grounds); *In re Jenkins Court Associates Ltd. P'ship*, 181 B.R. 33, 36 (Bankr. E.D. Pa. 1995) (finding that a prepetition waiver of the automatic stay, on the facts of that case, amounted to an unenforceable restraint on filing for bankruptcy); *but compare In re Excelsior Henderson Motorcycle Mfg. Co., Inc.*, 273 B.R. 920, 923-24 (Bankr. S.D. Fla. 2002) ("Although an order of this court granting relief from stay may debilitate the Debtor somewhat, the Debtor accepted that risk when it agreed to the prepetition waiver of the automatic stay" particularly because "[t]here was no prepetition waiver in the original loan agreement" and where "[t]he agreement not to object to the motion to lift stay was bargained for[.]"); *In re Club Tower L.P.*, 138 B.R. 307, 311 (Bankr. N.D. Ga. 1991) (finding no violation of public policy when "enforcing a pre-bankruptcy agreement provision by which a debtor agrees not to oppose the granting to a lender of relief from stay"); *In re Citadel Properties, Inc.*, 86 B.R. 275, 275 (Bankr. M.D. Fla. 1988) (enforcing a prepetition waiver of the automatic stay where the parties entered into a settlement agreement that allowed the creditor to seek immediate relief from the automatic stay).

In sum, the debtor's prepetition agreement with Wells Fargo weighs somewhat in favor of granting relief from the automatic stay, but it is not determinative. For the reasons set forth in part "(1)" of this tentative ruling above, it still appears to be appropriate not to grant such relief, at least at this early stage of this bankruptcy case.

(3) To protect Dr. Sommer from Wells Fargo's litigation, it appears that either he must file his own bankruptcy case or the debtor must seek injunctive relief. Some of the debtor's arguments rely on protection of its principal, Dr. Sommers, because he is (apparently) essential to the debtor's business, and his ability to preserve and grow the debtor's value will be greatly impeded if Wells Fargo is granted relief from the automatic stay. That is somewhat

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persuasive in the short term.

But in general, if it is important for the debtor's viability to shield Dr. Sommers from litigation then the remedy is one of two things. He could file his own bankruptcy case (to obtain the protections of the automatic stay, in exchange for the burdens and obligations of being a debtor in bankruptcy). Alternatively the debtor could bring an adversary proceeding seeking injunctive relief. See Rule 7001, Fed. R. Bankr. P; *In re Excel Innovations, Inc.*, 502 F.3d 1086 (9th Cir. 2007); *In re Am. Hardwoods, Inc.*, 885 F.2d 621, 626 (9th Cir. 1989).

This is an additional reason to continue this hearing for a short period of time. If the debtor (or Dr. Sommer) wish to pursue one of these avenues, or any other relief that they believe to be essential or advisable to protect the debtor, then they may do so. They are cautioned, however, without pursuing such alternatives he probably cannot use the debtor as a shield for very long.

(4) Other considerations for granting or denying relief from the automatic stay to proceed before a non-bankruptcy forum. At the continued hearing the parties should be prepared to discuss the '*Curtis*' factors, considered in determining whether or not relief from stay to proceed before a non-bankruptcy forum is appropriate. *In re Curtis*, 40 B.R. 795, 799–800 (Bankr. D. Utah 1984). See *In re Kronmeyer*, 405 B.R. 915 (9th Cir. BAP 2009); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559–60 (Bankr. C.D. Cal.2004).

(5) Further briefing and evidence. The parties may, if they wish, file supplemental briefs or evidence on the same schedule as if Wells Fargo were filing and serving a new motion for hearing at the above date and time. This Court strongly encourages the parties, however, to attempt to reach a consensual resolution (and, if they wish, they can grant each other additional time to file papers, or agree to a continued hearing date, to provide themselves with time to attempt such a resolution).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

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Tentative Ruling for 8/2/16:

See tentative ruling for chapter 11 status conference (8/2/16, 2:00 p.m., calendar no. 9).

Tentative Ruling for 5/31/16:

Continue to 7/19/16 at 1:00 p.m. to address the following issues.

Appearances are not required on 5/31/16.

Key documents reviewed: motion of Wells Fargo Bank, N.A. ("Wells Fargo") for relief from automatic stay (dkt. 61); debtor's response (dkt. 72); Wells Fargo's reply (dkt. 77, at p.); and joinder of Dr. Sommer (debtor's principal and, apparently, its major creditor and landlord) (dkt. 78).

Reasons:

(1) Wells Fargo apparently seeks relief primarily against Dr. Sommers, but also against the debtor. Wells Fargo contends that it seeks to recover primarily from Dr. Sommers, who owns the subject property, and Wells Fargo further agrees that the stay will remain in effect as to enforcement of any judgment against this debtor (retaining the right to file a proof of claim, if appropriate) (see dkt. 61, p. 3, para. 4.b.). It appears, however, that any relief against Dr. Sommers is in effect relief against the debtor, or at least it has the potential to have a very substantial negative impact against the debtor.

According to the debtor's bankruptcy schedule G (dkt. 29, PDF p. 22-23), it leases the property. It is unclear whether foreclosure against Dr. Sommers would wipe out the debtor's leasehold interest, but that might well be so, and then the debtor's business might well collapse. Moreover, conceivably the debtor would have no right to continue its occupancy even long enough to allow it to find/lease new premises, move out equipment, sell its business or equipment to a purchaser, or otherwise protect its value, and that would harm all other creditors, employees, and other parties in interest. See *In re Perl*, 811 F.3d 1120 (9th Cir. 2016).

This Court expresses no opinion whether those consequences necessarily would flow from granting Wells Fargo the relief that it requests from the automatic stay; but the point is that Wells Fargo has not addressed these issues, and on the present record its acts that are nominally only against Dr. Sommers apparently have the potential to harm severely the interests of other creditors. That weighs against granting relief to Wells

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Fargo, provided that its interests can be adequately protected within the meaning of 11 U.S.C. 361 & 362(d)(1).

Adequate protection in this case appears to rest largely on the debtor's ability to maintain and grow its value as a viable business, and for those purposes it needs a space in which to operate. Wells Fargo has not presented any evidence that the value of the debtor's business is declining.

To the contrary, the only evidence before this Court (albeit mostly presented on different motions) suggests that the debtor may have a viable strategy to reorganize its finances and exit from bankruptcy. Presumably, as in most cases, the best proof of whether that is so will be the debtor's postpetition performance, with greater leeway being afforded to the debtor for a short period at the start of the case.

Accordingly, on the present record it appears that Wells Fargo is adequately protected, and that it is in the best interests of the bankruptcy estate and other creditors not to grant relief from the automatic stay at this time.

The remainder of this tentative ruling addresses whether there are additional considerations that weigh either in favor of relief from the automatic stay or against it. There are considerations on both sides.

(2) Prepetition agreement not to oppose relief from the automatic stay. The debtor analogizes to prepetition agreements to waive the bankruptcy discharge, or not to file a bankruptcy petition at all, and Wells Fargo points out that those are not the actual situation. Neither party cites to relevant reported decisions, which generally disfavor prepetition agreements to relief from the automatic stay, but which also sometimes weigh them to some extent in favor of granting such relief, especially when the debtor (and other creditors) have obtained benefits in exchange for such waivers. See, e.g., *Matter of Pease*, 195 B.R. 431, 433 (Bankr. D. Neb. 1996) (prepetition waiver unenforceable on public policy grounds); *In re Jenkins Court Associates Ltd. P'ship*, 181 B.R. 33, 36 (Bankr. E.D. Pa. 1995) (finding that a prepetition waiver of the automatic stay, on the facts of that case, amounted to an unenforceable restraint on filing for bankruptcy); *but compare In re Excelsior Henderson Motorcycle Mfg. Co., Inc.*, 273 B.R. 920, 923-24 (Bankr. S.D. Fla. 2002) ("Although an order of this court granting relief from stay may debilitate the Debtor somewhat, the Debtor accepted that risk when it agreed to the prepetition waiver of the automatic stay" particularly because "[t]here was no

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prepetition waiver in the original loan agreement" and where "[t]he agreement not to object to the motion to lift stay was bargained for[.]"); *In re Club Tower L.P.*, 138 B.R. 307, 311 (Bankr. N.D. Ga. 1991) (finding no violation of public policy when "enforcing a pre-bankruptcy agreement provision by which a debtor agrees not to oppose the granting to a lender of relief from stay"); *In re Citadel Properties, Inc.*, 86 B.R. 275, 275 (Bankr. M.D. Fla. 1988) (enforcing a prepetition waiver of the automatic stay where the parties entered into a settlement agreement that allowed the creditor to seek immediate relief from the automatic stay).

In sum, the debtor's prepetition agreement with Wells Fargo weighs somewhat in favor of granting relief from the automatic stay, but it is not determinative. For the reasons set forth in part "(1)" of this tentative ruling above, it still appears to be appropriate not to grant such relief, at least at this early stage of this bankruptcy case.

(3) To protect Dr. Sommer from Wells Fargo's litigation, it appears that either he must file his own bankruptcy case or the debtor must seek injunctive relief. Some of the debtor's arguments rely on protection of its principal, Dr. Sommers, because he is (apparently) essential to the debtor's business, and his ability to preserve and grow the debtor's value will be greatly impeded if Wells Fargo is granted relief from the automatic stay. That is somewhat persuasive in the short term.

But in general, if it is important for the debtor's viability to shield Dr. Sommers from litigation then the remedy is one of two things. He could file his own bankruptcy case (to obtain the protections of the automatic stay, in exchange for the burdens and obligations of being a debtor in bankruptcy). Alternatively the debtor could bring an adversary proceeding seeking injunctive relief. See Rule 7001, Fed. R. Bankr. P; *In re Excel Innovations, Inc.*, 502 F.3d 1086 (9th Cir. 2007); *In re Am. Hardwoods, Inc.*, 885 F.2d 621, 626 (9th Cir. 1989).

This is an additional reason to continue this hearing for a short period of time. If the debtor (or Dr. Sommer) wish to pursue one of these avenues, or any other relief that they believe to be essential or advisable to protect the debtor, then they may do so. They are cautioned, however, without pursuing such alternatives he probably cannot use the debtor as a shield for very long.

(4) Other considerations for granting or denying relief from the

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automatic stay to proceed before a non-bankruptcy forum. At the continued hearing the parties should be prepared to discuss the '*Curtis*' factors, considered in determining whether or not relief from stay to proceed before a non-bankruptcy forum is appropriate. *In re Curtis*, 40 B.R. 795, 799–800 (Bankr. D. Utah 1984). See *In re Kronmeyer*, 405 B.R. 915 (9th Cir. BAP 2009); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559–60 (Bankr. C.D. Cal.2004).

(5) Further briefing and evidence. The parties may, if they wish, file supplemental briefs or evidence on the same schedule as if Wells Fargo were filing and serving a new motion for hearing at the above date and time. This Court strongly encourages the parties, however, to attempt to reach a consensual resolution (and, if they wish, they can grant each other additional time to file papers, or agree to a continued hearing date, to provide themselves with time to attempt such a resolution).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

MEDomics, LLC

Represented By
Illyssa Fogel
Michael Jay Berger

Movant(s):

Wells Fargo Bank, National

Represented By
Edward J Miller

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#18.00 Cont'd status conference re: Chapter 11 case
fr. 5/3/16, 6/7/16, 7/5/16, 8/2/16

Docket 6

Tentative Ruling:

Tentative Ruling for 9/6/16:

Continue all matters to 10/11/16 based on the relatively positive report (dkt. 152) of the Chapter 11 Trustee (see also dkt. 153, status report of Dr. Sommer), and meanwhile (1) foreclosure of Dr. Sommer's house will continue to be prohibited by this court's orders (dkt. 146 and adv. no. 2:16-ap-01311-NB, dkt. 15), and (2) Socket Capital and the Chapter 11 Trustee may lodge any stipulation, or file any other relevant papers, regarding the proposed use of cash collateral. Appearances are not required on 9/6/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Revised Tentative Ruling for 8/2/16:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Background. Creditor Wells Fargo Bank, N.A. ("Wells Fargo") has opposed the use of its cash collateral (e.g., case dkt. 43) and has sought relief from the automatic stay (case dkt. 61) to pursue its remedies both against the debtor and against the debtor's principal, guarantor, landlord, and creditor Dr. Steve S. Sommer (Wells Fargo has, commendably, recognized that it might need such relief, at least to foreclose on the property rented by the debtor, even though Dr. Sommer stipulated prepetition to such relief). This Bankruptcy Court has granted Wells Fargo some relief, and also some relief to the debtor/bankruptcy estate, by providing very limited authority to the debtor to use cash collateral (case dkt. 37, 53).

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More recently, primarily due to Dr. Sommer's non-compliance with the orders of this Bankruptcy Court regarding the use of cash collateral, this Bankruptcy Court has ordered the appointment of a Chapter 11 Trustee, and has approved the US Trustee's selection of David M. Goodrich ("Trustee") to serve in that role (case dkt. 114, order issued 6/15/16). Dr. Sommer continues to act as the debtor's principal, under the supervision of the Trustee.

Dr. Sommer, apparently recognizing that the automatic stay that protects the debtor might not actually protect him or his interests, or might be modified to eliminate any such protection, filed a motion for an injunction (case dkt. 119, filed 6/24/16). At a status conference in this case on 7/5/16, this Bankruptcy Court (i) expressed the view that the relief requested by Dr. Sommer appears to require an adversary proceeding (see Rule 7001(7), Fed. R. Bankr. P.), (ii) set certain deadlines for Dr. Sommer to commence any such adversary proceeding, and (iii) continued certain matters, such as Wells Fargo's motion for relief from the automatic stay, with no party objecting, to this date and time.

On 7/8/16 Dr. Sommer withdrew his motion in the main case for injunctive relief (case dkt. 126). On 7/13/16 he commenced his adversary proceeding (case dkt. 131, commencing Adv. No. 2:16-bk-01311-NB) and filed a motion (adv. dkt. 2) seeking essentially the same relief. Wells Fargo has filed opposition papers (adv. dkt. 8-9), and Dr. Sommer has (untimely) filed reply papers (dkt. 10-11).

Meanwhile, from the inception of this bankruptcy case, Dr. Sommer has been hopeful that a new business model and better collection of accounts will lead to higher revenues. In his motion for an injunction, Dr. Sommer states that postpetition revenue has significantly increased. But it is unclear whether this actually has happened. It does not appear to be reflected on monthly operating reports (see, e.g., dkt. 129).

(b) Adversary proceeding 2:16-bk-01311-NB: motion for preliminary injunction (adv. dkt. 2). It appears to be undisputed that Dr. Sommer performs essential functions for the debtor and his ongoing assistance may be critical to the debtor's ability to function at all, let alone any hope of providing a dividend to creditors. In addition, Dr. Sommer apparently devotes a huge number of hours each week to the debtor, and he has suffered from health problems in the past, so he has strong reasons for wanting to be

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protected from Wells Fargo.

But the burdens on Dr. Sommer, and his benefits to the debtor, are not the only considerations. Ultimately the issue is whether providing injunctive relief to protect Dr. Sommer from Wells Fargo's pursuit of its remedies is the only means, and the most appropriate means, of providing some protection to Dr. Sommer and attempting to assure his ongoing assistance to the debtor.

(i) Standing. The tentative ruling is that the motion must be denied because Dr. Sommer has not adequately established standing to bring the motion. The debtor, through the chapter 11 trustee, is the only party with standing to request an injunction under 11 U.S.C. 105(a), at least unless Dr. Sommer can establish an exception to this rule. See adv. dkt. 8, p. 3:9-18; *In re Consol. Pioneer Mortgage Entities*, 205 B.R. 422, 425 (9th Cir. BAP 1997) ("And more importantly, standing to enjoin the actions of a third party rests with the debtor, debtor in possession, or the trustee, and not with the third party.") (internal citations and punctuation omitted).

It is true that standing sometimes can be established by creditors to act on behalf the estate, such as when a debtor in possession fails or refuses to act in the best interests of creditors, or when the debtor/trustee joins in a creditor's request for relief. See adv. dkt. 10, p. 8:10-9:2, *and see generally*, e.g., 11 U.S.C. 1109; *In re Lahijani*, 325 B.R. 282, 288 (9th Cir. BAP 2005); *Matter of Ring*, 178 B.R. 570, 577 (Bankr. S.D. Ga. 1995) (creditor had standing under 11 U.S.C. 105 for purposes of contempt proceeding).

But in this case the Trustee has not joined in Dr. Sommer's request for relief. In addition, as set forth below, Dr. Sommer has not established that such request is truly necessary or appropriate in the best interests of the estate.

(ii) Dr. Sommer can file his own bankruptcy. Until his reply, Dr. Sommer largely ignored this Court's question, posed in the context of its tentative ruling on Wells Fargo's motion for relief from stay, asking why he could not file his own bankruptcy if he sought to stay Wells Fargo's acts against him or his property interests. There are dangers to granting non-debtors such as Dr. Sommer the protections of a stay without the concurrent obligations of the bankruptcy code.

For example, if Dr. Sommer had to file his own bankruptcy case he would have to disclose certain financial matters that might include constructively fraudulent transfers, preferences, or other avoidable transfers that Dr. Sommer may have made to third parties, or that he might have

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received from the debtor. In addition to such disclosure requirements, a bankruptcy petition by Dr. Sommer would offer other benefits, such as tolling of statutes of limitations as provided in 11 U.S.C. 108. In other words, Dr. Sommer has not shown how it is appropriate to enjoin acts against him and thereby provide him with one of the principal benefits of bankruptcy protection without the concomitant obligations and protections for his own creditors and the debtor's creditors.

Dr. Sommer contends that there are two weaknesses with the proposition that he file his own bankruptcy. First, he contends that this is not an "adequate remedy at law."

While it is true that bankruptcy is an equitable proceeding, and in that sense not a "remedy at law," it is also true that injunctive relief is an equitable remedy. The burden is on Dr. Sommer to show why it is equitable to provide him with the protection of an injunction without the burdens and protections that typically would accompany such protection.

Second, Dr. Sommer contends that he would lose the non-exempt equity in his home which is a possible source of funding for this estate. This argument also fails.

If there is substantial equity then presumably Dr. Sommer can provide a treatment of Wells Fargo in his own bankruptcy case that will (A) provide adequate protection and full present value to Wells Fargo (see 11 U.S.C. 361-363 & 1129(a)&(b)) while also (B) using any excess equity for the benefit of the debtor and himself. He has not shown how that would be impossible or inequitable.

(iii) Alternatively, Dr. Sommer can elect not to file his own bankruptcy petition. Dr. Sommer has not established that it necessarily would be detrimental to the bankruptcy estate if Wells Fargo were free to continue pursuing foreclosure against the property rented by the debtor, and its other remedies. Wells Fargo appears in its own self-interest to have an incentive not to destroy the debtor's business, if that business is truly viable and could be a realistic source of payment to Wells Fargo (and other creditors). Alternatively, even if Wells Fargo is unwilling to work with the debtor and Dr. Sommer, the foreclosure process will take several months (according to the un rebutted allegations by Wells Fargo) and there may be other remedies such as selling the property and using its alleged equity.

(iv) Conclusion. Although this Bankruptcy Court recognizes that Dr. Sommer's services may be essential for the debtor, and that he might be

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unable to devote as much time to the debtor or even choose to abandon the debtor if he does not obtain the injunctive relief that he seeks, he has not shown how it is appropriate to grant him the benefits of a stay without the burdens and protections for creditors that normally are required for such a stay. The tentative ruling is to deny his motion for a preliminary injunction, except for a very brief period described below for Dr. Sommer to file his own bankruptcy petition, if he chooses to do so.

(c) Motion for relief from the automatic stay. For the reasons set forth in this Court's original tentative ruling (see matter number 7 for 8/2/16 at 2:00 p.m., including a copy of the tentative ruling for 5/31/16) and based on Wells Fargo's largely un rebutted analysis of the *Curtis* factors (2:16-ap-01311-NB, adv. dkt. 8:2-9:12), the tentative ruling is to modify the automatic stay as follows. After a short period described below, Wells Fargo (i) may pursue its remedies against Dr. Sommer or his interests, including any foreclosure of the property that is rented by the debtor, but (ii) not actually hold any foreclosure sale prior to a future date, to be set at this 8/2/16 hearing after hearing from the Trustee regarding the debtor's present and anticipated performance, and not otherwise collect from the debtor.

The tentative ruling is to such that short period at 21 days from this hearing date - *i.e.*, through 8/23/16. This further stay is intended to provide Dr. Sommer an opportunity to determine whether or not he will file his own bankruptcy petition, or pursue some other (legal and proper) form of relief.

(d) Cash collateral. This Bankruptcy Court previously directed Dr. Sommer's counsel to communicate with chambers to discuss why the order regarding cash collateral had been rejected. As far as this Court is aware, no such communication was made and, based on a review of this Court's records of rejected orders, it is unclear that Dr. Sommer's counsel ever properly lodged the order (it would appear on the docket or in this Court's rejected order list, but it does not appear in either place). Accordingly, Dr. Sommer's counsel should be prepared to address why he has not taken care of lodging a proposed cash collateral order.

(2) Deadlines/dates. This case was filed on 4/5/16. If this Court does not convert or dismiss this case, it intends to set the following deadlines.

(a) Bar date: 6/30/16 (timely served, dkt. 54)

(b) Plan/Disclosure Statement*: Any prior deadlines are vacated. The

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parties should be prepared to address what deadlines may be appropriate.

(c) Continued status conference: 9/6/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 8/2/16:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Background. This Court held a status conference in this case on 7/5/16. At that status conference, this Court set certain deadlines for Dr. Sommer to commence an adversary proceeding, and continued certain matters, such as Wells Fargo's motion for relief from the automatic stay, with no party objecting, to this date and time.

(b) Adversary proceeding 2:16-bk-01311-NB: motion for preliminary injunction (adv. dkt. 2). This Court has reviewed plaintiff and creditor Dr. Steve S. Sommer's motion for a preliminary injunction (adv. dkt. 2) and the opposition thereto (adv. dkt. 8, 9). On 7/27/16, Dr. Sommer filed an untimely reply.

(i) Standing. As an initial matter, the tentative ruling is that the debtor, through the chapter 11 trustee, and not Dr. Sommer, is the only party with standing to request an injunction under 11 U.S.C. 105(a). Adv. dkt. 8, p. 3:9-18; see *In re Consol. Pioneer Mortgage Entities*, 205 B.R. 422, 425 (9th Cir. BAP 1997) ("And more importantly, standing to enjoin the actions of a third party rests with the debtor, debtor in possession, or the trustee, and not with the third party.") (internal citations and punctuation omitted). Accordingly, on this basis, the tentative ruling is that the motion for injunctive relief must be denied.

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However, because standing can be established by creditors on behalf of the estate under certain circumstances, such as those cited by Dr. Sommer in his reply (adv. dkt. 10, p. 8:10-9:2), this Court will assume without deciding that Dr. Sommer *could* establish standing, either as a creditor or by having the debtor join in his action. See, e.g., 11 U.S.C. 1109; *In re Lahijani*, 325 B.R. 282, 288 (9th Cir. BAP 2005); *Matter of Ring*, 178 B.R. 570, 577 (Bankr. S.D. Ga. 1995) (holding that a creditor has standing under 11 U.S.C. 105 for purposes of a contempt proceeding).

(ii) Dr. Sommer can file his own bankruptcy. Until his reply, Dr. Sommer largely ignored this Court's question, posed in the context of its tentative ruling on the motion for relief from stay, asking why he could not file his own bankruptcy and obtain the benefits of the automatic stay, subject to the obligations of the bankruptcy code.

In requesting an injunction rather than filing a bankruptcy, Dr. Sommer does not have to disclose his own financial situation and there are possibly fraudulent transfers, preferences, or other avoidable transfers that Dr. Sommer may have made. As to these possible avoidable transfers, Dr. Sommer is obtaining the benefit of the automatic stay without the tolling of statutes of limitations provided by 11 U.S.C. 108. Dr. Sommer has not shown how this is fair.

These considerations are strengthened by the fact that Dr. Sommer's financial success is tied to the success (or failure) of this debtor's reorganization. If Dr. Sommer was simply a standard CEO, perhaps it would be proper to issue an injunction because he would have no incentive to file his own bankruptcy to protect the entity. This is not the case with Dr. Sommer.

Dr. Sommer contends that there are two weaknesses with the proposition that he file his own bankruptcy. First, he contends that this is not an "adequate remedy at law." While this is true, it is a remedy available to him and by analogy it must be considered. Second, he contends that he would lose the non-exempt equity in his home which is a possible source of funding for this estate. This argument also fails. As explained above, Dr. Sommer would essentially be gaining the benefit of the automatic stay, as against Wells Fargo, without any of the substantial burdens of being a debtor in bankruptcy. The automatic stay and other powers afforded to a debtor in possession are the quid pro quo of the disclosure and other requirements of the bankruptcy code. Dr. Sommer cannot have it both ways.

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(iii) Motion is denied. Because Dr. Sommer failed to address these issues, and because the issuance of an injunction is not proper here for the reasons set forth above, the Court's tentative ruling is to deny the motion.

(c) Motion for relief from the automatic stay. For the reasons set forth in this Court's original tentative ruling (see matter number 7 for 8/2/16 at 2:00 p.m., tentative ruling for 5/31/16) and based on Wells Fargo's undisputed analysis of the *Curtis* factors (2:16-ap-01311-NB, adv. dkt. 8:2-9:12), the tentative ruling is to grant relief from the automatic stay subject to an expanded 21-day stay of any actions by Wells Fargo to enforce its interests against Dr. Sommer or the debtor. This further stay is intended to provide Dr. Sommer an opportunity to determine whether or not he will file his own bankruptcy.

(d) Cash collateral. This Court directed Dr. Sommer's counsel to contact chambers to discuss why the order regarding cash collateral had been rejected. As far as this Court is aware, no contact was made. Based on this Court's review of its records of rejected orders, it is unclear that Dr. Sommer's counsel ever properly lodged the order (it would appear on the docket or in this Court's rejected order list, but it appears neither place). Accordingly, Dr. Sommer's counsel should be prepared to address why he did not contact chambers and why he has not correctly lodged a cash collateral order.

(e) Revenue. In his motion for an injunction, Dr. Sommer states that postpetition revenue has significantly increased. Has this actually happened? Why is this not reflected on monthly operating reports (see, e.g., dkt. 129)?

(2) Deadlines/dates. This case was filed on 4/5/16. If this Court does not convert or dismiss this case, it intends to set the following deadlines.

(a) Bar date: 6/30/16 (timely served, dkt. 54)

(b) Plan/Disclosure Statement*: file by 8/31/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for

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such objections are established).

(c) Continued status conference: 9/6/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 7/5/16:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Chapter 11 trustee. On 6/15/16, this Court issued an order approving appointment of a chapter 11 trustee. The chapter 11 trustee should be prepared to update this Court on the status of this case. Does this Court need to set a new deadline for the filing of a disclosure statement and plan, or establish alternative procedures for any exit strategy from chapter 11?

(b) U.S. Trustee's motion to dismiss, convert, or appoint a chapter 11 trustee (dkt. 83). Because this Court has appointed a chapter 11 trustee, this Court's tentative ruling is to deny as moot the U.S. Trustee's motion.

(c) Cash collateral. On 6/7/16, this Court denied, subject to certain conditions, the debtor's continued use of cash collateral. The parties should be prepared to update this Court as to the status of this matter.

(2) Deadlines/dates. This case was filed on 4/5/16.

(a) Bar date: 6/30/16 (timely served, dkt. 54)

(b) Plan/Disclosure Statement*: file by 8/31/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at

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least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 9/6/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/7/16:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) New counsel. If this Court adopts its tentative ruling to authorize withdrawal of debtor's bankruptcy counsel of record, the debtor should be prepared to address the status of finding new counsel and whether this case should be dismissed or converted, because this is an unrepresented limited liability company. See LBR 9011-2.

(b) Success of new test. As this Court understands, the debtor's new test was implemented relatively recently. Are there any indicia of how it is being received in the market? The most current monthly operating report (dkt. 69, PDF p. 18) shows a net loss of \$4,003.06. Is the new test attracting the hoped-for business?

(c) Healthcare ombudsman. This Court has reviewed the report of the healthcare ombudsman (dkt. 94) and at this time does not anticipate requiring further services but appreciates the ombudsman's willingness to be available in future if needed.

(d) Rejection of Arcadia lease. At the status conference held on 5/3/16, the debtor stated an intention to reject the lease in Arcadia. Why has it not done so? What is the justification of the costs of this delay?

(e) Progress re: Dr. Sommer. The debtor does not appear to have

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taken any action to obtain injunctive or similar relief regarding Dr. Sommer.
Will the debtor be able to reorganize absent such relief?

(f) United States Trustee's motion to dismiss and apparent failure to pay payroll taxes. In addition to the other issues raised in the United States Trustee's motion to dismiss, at the continued hearing, the debtor should be prepared to address whether or not it has paid postpetition payroll taxes and whether any unpaid taxes have been brought current. See dkt. 83, Ex.1&2.

(g) Dismissal or conversion. In view of the foregoing, and based on the debtor's apparent use or non-use of cash collateral, is there any plausible way for this case to proceed? Should this case be dismissed or converted?

(2) Deadlines/dates. This case was filed on 4/5/16. If this Court does not convert or dismiss this case, it intends to set the following deadlines.

(a) Bar date: 6/30/16 (timely served, dkt. 54)

(b) Plan/Disclosure Statement*: file by 8/31/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 7/19/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 5/3/16:

Appearances required by counsel for the debtor and by the principal for the debtor.

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(1) Current issues

(a) Status report. The debtor's status report (dkt. 26) is not on the form required by this Court's order (dkt. 5, p. 2, para. 2), making it difficult to see what may have been omitted (e.g., item 12 evades the question whether a health care ombudsman is required, as now stipulated with the US Trustee, dkt. 40). At the hearing, the debtor's new counsel should be prepared to address whether anything else has been omitted.

(b) Exit strategy. The debtor appears to be relying on "a combination of pursuing receivables more aggressively and promoting [its] new test" which this Court understands was only recently developed. Dkt. 26, pp. 1:27-2:1. Has the debtor started to implement this strategy? Are there any indicia of progress so far?

(c) Founder's note. The debtor scheduled a "Founder Note" from the debtor's principal, Dr. Steve Sommer, apparently making him the estate's largest general unsecured creditor. Before any plan will be proposed, is it necessary to address whether this was an equity contribution instead of a loan? Alternatively, should that be addressed in any disclosure statement?

(d) Assumption/rejection of leases. At the hearing on the debtor's motion for authority to use cash collateral, the debtor stated an intention to assume or reject certain leases. When does the debtor anticipate filing a motion to reject the leases, and is the cost of delay justified?

(e) Former counsel's retainer. The debtor's former counsel, Illyssa Fogel, Esq., apparently accepted \$21,700 out of an agreement for \$100,000 in fees for handling this case. See dkt. 29, PDF p. 29. Will Ms. Fogel be returning any of that to the estate?

(f) Application to employ general bankruptcy counsel. Debtor's proposed general bankruptcy counsel states that it requests a \$20,000 postpetition retainer (of which it has already received \$10,000 as a gift from Alan Rin. See dkt. 33, p. 10-11, para 22. This Court requests that the United States Trustee be prepared to address its position on this arrangement. Is "Alan Rin" related to "Adam Rin," the former alternate managing member of the debtor? See dkt. 30.

(2) Deadlines/dates. This case was filed on 4/5/16.

(a) Bar date: 6/30/16 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 8/31/16 using the forms

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required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 6/5/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

MEDomics, LLC

Represented By
Illyssa Fogel

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2:16-14355 MEDomics, LLC

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Adv#: 2:16-01311 Sommer v. Wells Fargo Bank NA

#19.00 Cont'd hrg re: Motion for an injunction in aid
of automatic stay pursuant to 11 U.S.C.
section 105(a)
fr. 08/02/16

Docket 2

Tentative Ruling:

Tentative Ruling for 9/6/16:

See tentative ruling for chapter 11 status conference (9/6/16, 1:00 p.m.,
calendar no. 18).

Tentative Ruling for 8/2/16:

See tentative ruling for chapter 11 status conference (8/2/16, 2:00 p.m.,
calendar no. 9).

Party Information

Debtor(s):

MEDomics, LLC

Represented By
Illyssa I Fogel

Defendant(s):

Wells Fargo Bank NA

Pro Se

Plaintiff(s):

Steve S. Sommer

Represented By
Daniel I Barness

Trustee(s):

David M Goodrich (TR)

Pro Se

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2:14-28176 Rosemary L Bean-Moore

Chapter 13

Adv#: 2:15-01654 Moore v. Bean-Moore

#20.00 Cont'd status conference re: Complaint for nondischargeability for: 1) Debts incurred through false pretenses, false representation or actual fraud under 11 U.S.C. section 523(a)(2)(A); 2) Debts neither listed nor scheduled pursuant to 11 U.S.C. unscheduled and unlisted debts section 523(a)(3); 3) Debts incurred through fraud or defalcation while acting in a fiduciary capacity section 523(a)(4); 4) Debts incurred for willful and malicious injury to property section 523(a)(6); 5) Revocation of plan confirmation pursuant to 11 U.S.C. section 1330 fr. 2/9/16, 6/7/16

Docket 1

***** VACATED *** REASON: This matter is scheduled to be heard on 12/13/16 at 11:00 a.m. per parties' Stipulation (dkt. 15)**

Tentative Ruling:

Party Information

Debtor(s):

Rosemary L Bean-Moore

Represented By
Devin Sawdayi

Defendant(s):

Rosemary L Bean-Moore

Pro Se

Plaintiff(s):

Gerald K Moore

Represented By
Daren M Schlecter

Trustee(s):

Kathy A Dockery (TR)

Pro Se

Kathy A Dockery (TR)

Pro Se

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CONT... Rosemary L Bean-Moore

Chapter 13

U.S. Trustee(s):

United States Trustee (LA)

Pro Se

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2:16-12679 Michael R Totaro

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#1.00 Hrg re: Motion for order reducing proof of claim no. 9
filed by secured creditor AOK Brothers, LLC.

Docket 121

Tentative Ruling:

Please see the tentative ruling for the status conference (calendar no. 2,
9/6/16 at 2:00 p.m.).

Party Information

Debtor(s):

Michael R Totaro

Represented By
Martina A Slocomb

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2:16-12679 Michael R Totaro

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#2.00 Cont'd status conference re: Chapter 11 case
fr. 4/12/16, 04/26/16, 05/17/16, 8/2/16

Docket 0

Tentative Ruling:

Revised Tentative Ruling for 9/6/16:

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(A) Current issue: objection to AOK claim

This court has reviewed the debtor's objection (dkt. 121) to proof of claim 9-1, filed by AOK Brothers, LLC (AOK); AOK's opposition (dkt. 147); and the debtor's reply to the objection (dkt. 150).

(1) Default interest

The parties do not appear to disagree on the legal standards. The debtor does not (at this time) seek to disallow default interest pursuant to any "cure" concept under bankruptcy law. *Cf., e.g., GECC v. Future Media*, 547 F.3d 956 (9th Cir. 2008); *In re Entz-White Lumber and Supply, Inc.*, 850 F.2d 1338 (9th Cir. 1988). Rather, the debtor relies on California law. See generally *In re Kord Enterprises II*, 139 F.3d 684, 687 (9th Cir. 1998).

As stated by the California Supreme Court, the analysis under California law is to determine whether default rates of interest are either permissible liquidated damages or an impermissible penalty:

[California Civil Code] Section 1671 authorizes the assessment of agreed-upon and anticipated damages only when the fixing of the actual damages which would be sustained upon a breach would be "impracticable" or "extremely difficult." Where, as here, the issue is presented on admitted facts it is one of law and must be examined from the position of the parties at the time the contract was entered into. The party seeking to rely on a liquidated damages clause bears the burden of proof. [¶] "The validity of a clause for liquidated damages requires that the parties to the contract 'agree

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therein upon an amount which shall be presumed to be the amount of damages sustained by a breach thereof...." (Civ. Code, § 1671.) This amount must represent the result of a reasonable endeavor by the parties to estimate a fair average compensation for any loss that may be sustained. [*Garrett v. Coast & Southern Fed. Sav. & Loan Assn.*, 9 Cal.3d 731 (1973) (citations and some internal quotation marks omitted, emphasis added). See also *Ridgley v. Topa Thrift & Loan Assn.*, 17 Cal. 4th 970, 981 (Cal. 1998).]

In this instance, AOK has not met its burden to establish that the default rate of interest is permissible under California law. A five percent (5%) interest rate has not been shown to be a reasonable estimate of liquidated damages, given the \$1.3 million equity cushion AOK has in the property. In addition and alternatively, there is no showing of any anticipated damages - beyond the compensation that AOK already can claim through late charges, ongoing interest at the non-default rate, and other things such as attorney fees as set forth below – let alone evidence that the parties made a reasonable endeavor to estimate any such additional losses.

The debtor estimates that AOK's proof of claim includes at least \$15,000 of default interest. The tentative ruling is to set a deadline of 9/20/16 for AOK to file an amended proof of claim that shows the calculation of default interest, and a deadline of 9/27/16 for the debtor to lodge a proposed order, with a copy of this tentative ruling attached, that disallows all default interest (including not just whatever AOK asserts as of the petition date but also any future claim for default interest).

(2) Attorney fees

The debtor's motion requests that AOK's claim be reduced by \$34,221.46 for unreasonable and unnecessary attorney's fees incurred by AOK's counsel. The tentative ruling is to disallow a portion of those fees as set forth below.

The debtor is correct that the loan documents contain confusing provisions regarding attorney fees. But the tentative ruling is that the debtor is incorrect in arguing (dkt. 121, p.5:27-28) that a notice of acceleration or similar predicates were required before he had any obligation to pay AOK's attorney fees.

(a) Some loan document clauses require notices of acceleration

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or similar predicates

On the one hand, several clauses support the debtor's reading that AOK was required to send a notice of acceleration (or similar predicates) before being entitled to any attorney fees.

(i) The promissory note has a section (section 4.D) providing that "[i]f immediate full payment is required (acceleration, at AOK's option upon default) then AOK will have the right to be paid its reasonable attorney fees (dkt. 121, Ex.1, at PDF p.30, emphasis added).

(ii) The deed of trust ("DOT") provides (section 17) that if a notice of default is provided and the breach is not timely cured then AOK shall be entitled to collect all reasonable attorney fees "incurred in pursuing the remedies provided in this paragraph 17" (power of sale and other remedies permitted by applicable law). Dkt. 121, Ex.1, at PDF p.48.

(iii) The DOT's more general provision regarding protection of AOK's security (section 7) states that if debtor fails to perform then "upon notice to [debtor]" (dkt. 121, Ex.1, at PDF p.46, emphasis added) AOK may disburse sums and take actions necessary to protect its interests including disbursement of reasonable attorney fees.

(iv) An addendum to the promissory note (*id.*, at PDF p.35, the "Note Addendum") and a rider to the DOT (dkt. 121, Ex.1, at PDF p.55, the "DOT Rider") both provide that "[i]n the event that" there is a payment default and AOK permits the debtor "to cure the default," then the debtor shall pay AOK "all reasonable attorney fees and costs incurred by [AOK] originating from this default and the cure thereof." (Emphasis added.)

(v) The tentative ruling is that the debtor is correct that his "personal guaranty" of his own obligation is a nullity, so its attorney fee clause (dkt. 147, Ex.B, section 6) is of no force and effect.

(b) Other clauses require the debtor to pay AOK's attorney fees reasonably necessary to bring any late payments current

On the other hand, the Note Addendum and DOT Rider also provide that, if AOK has not received the full amount of any monthly payment by the end of ten calendar days after it is due, the debtor "will promptly pay to [AOK] all costs incurred by [it], including, but not limited to, attorneys' fees reasonably necessary to bring any late payments (overdue payments) current." Dkt. 121, Ex.1, at PDF pp. 35 & 55 (emphasis added). No notice of acceleration or other prerequisite is required for this obligation.

The debtor (dkt. 121, pp. 7:23-8:11 and 8:17-9:3) cites authority that

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such clauses must be construed narrowly against the lender, and argues that in this light AOK's bankruptcy litigation was not "reasonably necessary to bring any late payments (overdue payments) current." Instead, the debtor argues, AOK's litigation was bankruptcy-related: opposing the debtor's use of cash collateral; seeking to convert this case to one under chapter 7 of the Bankruptcy Code; opposing the debtor's motion to extend the exclusive period in which only he may propose a plan of reorganization; etc.

It is true that the decisions cited by the debtor construe such clauses strictly against the lender. See *dk. 121*, p.8:1-11 (citing cases); *and see, e.g., In re Cukierman*, 265 F.3d 846, 852 (9th Cir. 2001); *In re Westside Print Works*, 180 B.R. 557 (9th Cir. BAP 1995). But a fair reading of the loan documents, even construed against AOK, is that it was "reasonably necessary" to pay attorneys to engage in bankruptcy litigation in order to attempt to "bring any late payments" current. In fact, the whole point of bankruptcy reorganization (by this debtor and most debtors) is to attempt to defer or restructure financial obligations; and in opposing such attempts the creditor is attempting to "bring any late payments" current, as nearly as possible given the constraints of the bankruptcy system on creditors' exercise of their remedies.

Alternatively, even supposing that there were sufficient ambiguity about the loan documents to reach a different conclusion, that ambiguity would be resolved by the letter signed by the debtor (*dk. 147*, Ex.E) confirmed that he agrees to pay a late fee "in addition to any legal fees [AOK] incurs in connection with collecting any payment on my loan." Again, a fair reading of this document is that "collecting" payments includes filing a claim in a bankruptcy case, opposing the debtor's attempts to defer or reduce payments, and otherwise engaging in bankruptcy litigation.

For the foregoing reasons, AOK is owed its reasonable attorney fees. The remaining question is what attorney fees were reasonable.

(c) Reasonableness of AOK's attorney fees

The debtor is correct that, at least on the present record, AOK appears to be greatly oversecured, so much of its litigation was unnecessary to protect its interests and doomed to fail from the outset. In addition, as this Bankruptcy Court has noted before on the record, many of AOK's arguments lacked a sufficient foundation.

On the other hand, as this Bankruptcy Court previously has also observed, the debtor has been sloppy in some aspects of his case

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management – such as failing to recognize that AOK has an interest in cash collateral; or failing to provide adequate notice to AOK. In addition, the debtor's sloppiness and tendency to overstate his arguments justify greater involvement by AOK than typically might be required for a creditor protected by a substantial equity cushion.

This Bankruptcy Court has taken these things into consideration in reviewing AOK's daily timesheets. That review has been hampered by the fact that AOK's timesheets do not comply with the local rules and guidelines – for example, time entries are "lumped" together, and they do not often identify the precise issues addressed (e.g., the subjects of telephone conferences generally are not described). Nevertheless, this Bankruptcy Court has sufficient familiarity with the filed pleadings and records in this case, as well as the approximate amount of fees that normally would be incurred in cases of this sort, to be able to rule on this record. In addition, it does not appear that any party's interests would be served by the expense and delay of further briefing.

In view of the foregoing, the tentative ruling is to reduce AOK's legal fees to date by \$14,000.00.

(B) Deadlines/dates. This case was filed on 2/17/16.

- (1) Bar date: 6/30/16 (timely served, dkt. 58, 67).
- (2) Plan/Disclosure Statement*: 9/27/16 deadline to file (NOT SERVE, except on the US Trustee, AOK, and any other party requesting special notice) a draft plan and draft disclosure statement on the forms required by Judge Bason.*
- (3) Continued status conference: 10/18/16 at 2:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/6/16:

This court anticipates posting a tentative ruling at a later time.

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Tentative Ruling for 8/2/16:

Continue to 9/6/16 at 2:00 p.m. to address the following issues. Appearances are not required on 8/2/16.

On 7/19/16, this Court held a hearing on the debtor's motion to extend exclusivity. At that hearing, this Court exercised its inherent authority to manage its docket and determined that it was appropriate to continue this matter so that it is held concurrently with the debtor's objection to AOK Brother's claim.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Revised Tentative Ruling for 5/17/16:

Continue to 6/21/16 at 1:00 p.m. Appearances are not required on 5/17/16.

(1) Current issues

(a) Cash collateral motion. Grant (please see the tentative ruling for matter number 5, 5/17/16 at 1:00 p.m. for this Court's reasoning regarding the debtor's cash collateral motion).

(b) Properties. The tentative ruling is that the debtor has provided an adequate status report (dkt. 81), for present purposes, regarding the two properties as to which there appears to be some confusion regarding ownership: (i) 5255 Tchoupitoulas St., New Orleans Property and (ii) 3324 Octavia, New Orleans, Louisiana.

(c) Claim objections. Once AOK Brothers has filed its proof of claim, and the debtor has filed his objection, this Court will address whether to make preliminary rulings before or after directing the parties to mandatory mediation (note: Judge Bason's policy is to order mediation before one of the volunteer mediators, *not* a Bankruptcy Judge).

(d) Disclosure statement notice period. The debtor is correct (dkt. 81, para. 25) that the correct period is 42 days (the local rule is outdated and is in the process of being revised).

(2) Deadlines/dates. This case was filed on 2/17/16.

(a) Bar date: 6/30/16 (timely served, dkt. 58, 67).

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(b) Plan/Disclosure Statement*: file by 9/5/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: Continue as set forth above. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 5/17/16:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 4/26/16:

Deny the motion of AOK Brothers, LLC ("AOK") to dismiss or for other remedies (dkt. 51), and set a continued status conference, all as further set forth below. Appearances are not required.

(1) Current issues.

(a) Motion to dismiss etc. (dkt. 51). Deny the motion without prejudice to renewing it at a later date, if sufficient cause exists.

Proposed order: The debtor is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this court's final ruling.

Reasons for denial:

(i) Motion and opposition. The crux of AOK's motion is that cause exists under 11 USC 1112(b)(4) to convert or dismiss this case, and alternatively under 11 USC 1104, to appoint a chapter 11 trustee based on the debtor's alleged "gross mismanagement of the estate" and his "unauthorized use of cash collateral" that allegedly was "substantially harmful to 1 or more creditors[.]" 11 USC 1112(b)(4)(B) & (D). (In its reply (dkt. 65), AOK raises a number of additional issues allegedly supporting such relief.)

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On the one hand this Court is somewhat concerned about (A) the debtor's (apparently inadvertent) use of cash collateral without authorization and (slight) delay in seeking such authorization once he was alerted to the assignment of rents issue (see dkt. 39), (B) his filing of this case in the wrong division of this district (see dkt. 19, 21), (C) his refusal to communicate in writing with AOK's counsel except in limited ways, (D) some vagueness regarding the assets and liabilities of the bankruptcy estate, (E) the prior bankruptcies affecting the property on which AOK has a lien, and (F) AOK's other allegations. Nevertheless, this Court is not persuaded based on the current record that there has been anything remotely approaching "gross" mismanagement of this estate or that the duration and nature of the use of cash collateral caused any "substantial" harm (if there was any harm at all) to any creditors, including AOK.

There is no evidence that the cash collateral was used for anything other than legitimate purposes. One such use has been paying liens, including tendering payments to AOK at an interest rate that is *prima facie* within a reasonable range for adequate protection of AOK's interest (and AOK has not rebutted that *prima facie* showing). Another use of cash collateral is to maintain the subject property (see dkt. 40, budget at pp. 4-6). AOK has not identified any harm at all, let alone "substantial" harm, from this use of cash collateral.

(ii) AOK's reply. AOK raises a number of new issues in its reply. That is procedurally improper and should be disregarded. See LBR 9013-1 (g)(1).

Alternatively and additionally, these new issues are not sufficient to warrant conversion, dismissal, or appointment of a chapter 11 trustee. It is true that, in general, a debtor has a fiduciary obligation to make disclosures, conduct investigations, and take actions regarding liabilities and assets, including such matters as claims objections and potential avoidance actions. If this bankruptcy estate turns out to be insolvent, and if the other facts and circumstances warrant, then the debtor might have to consider recovering the funds that were used to pay for his son's legal fees, and in any event he may have to sort out his interests in certain real property and in the law firm with his wife. But at this early stage AOK has not established that the debtor is shirking any such duties at all.

The debtor has represented that he anticipates a 100% payment to creditors, and he is contemplating a sale or refinance of at least one property,

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all of which makes it likely that any pursuit of avoidance actions would be premature and possibly a waste of time and resources. AOK's secured claim appears to be adequately protected (as noted above).

Of course, AOK is not required to accept the debtor's assertions at face value, it can elect to do its own due diligence and otherwise protect its interests, and presumably (although this issue has not been briefed) it may be entitled to reimbursement under the loan documents and applicable law in some dollar amount for a reasonable expenditure of attorney fees in pursuit of those things. But at this early stage of this case AOK has not come close to showing any substantial basis for the extreme remedies of conversion, dismissal, or appointment of a chapter 11 trustee.

Turning to another example, it is true that the California ethical rules provide that "[w]hile representing a client" a member of the bar shall not communicate with a party whom the member "knows" to be represented by another lawyer in the matter (without that lawyer's consent). See Reply (dkt. 65) p.8:10-14 (quoting Rule 2-100). AOK has not cited legal authority that the debtor, representing himself, is "representing a client" within the meaning of the rule. In addition, the debtor has denied having the requisite knowledge of the representation, and AOK has not presented any contrary evidence. Moreover, supposing for the sake of discussion that AOK could show an ethical violation, it has not cited any authority that this would be sufficient for conversion, dismissal, or appointment of a chapter 11 trustee. This Court does not condone the alleged nature and tone of the communications (see Nelson Decl., dkt. 65, at PDF pp. 11-12), but if those were proven and amounted to actual ethical violations there would be separate remedies that would be more closely tailored to any actual wrongdoing, as opposed to sweeping remedies such as dismissal that may harm all creditors (and that might unduly punish even a debtor who has violated an ethical rule).

The remaining issues raised in AOK's reply appear to be most appropriately resolved through other means, such as a claim objection, consideration of a draft disclosure statement and plan, or the usual process of oversight by the Office of the United States Trustee ("UST"). For example, having reviewed the record in this case (including the transcript from the hearing on 4/12/16), it does not appear that this Court *ordered* the debtor to file an amended bankruptcy Schedule I, contrary to AOK's assertions in its reply. It is true that the UST and the debtor discussed possible amendments to the bankruptcy schedules at a prior hearing, but this Court left that in the

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first instance to the discretion of the debtor (under the eye of the UST) and any purported lack of accuracy will only be appropriate for this Court to address if later developments show that the debtor abused that discretion.

(iii) Debtor's supplemental opposition (dkt.68). The debtor's supplemental opposition is unauthorized and therefore, like the new arguments in the reply, need not be addressed. In addition and alternatively, this Court need not consider the factual allegations in that document (largely concerning the alleged ethical violation) because this Court is not persuaded by the reply in any event (for the reasons set forth above).

(2) Deadlines/dates. This case was filed on 2/17/16.

(a) Bar date: 6/30/16 (timely served, dkt. 58, 67).

(b) Plan/Disclosure Statement*: file by 9/5/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 5/17/16 at 1:00 p.m. No written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 4/12/16:

Appearances required by the debtor in person and any counsel for the debtor.

(1) Current issues.

(a) Status report. This Court has reviewed the debtor's timely filed status report (dkt. 47).

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Regarding the debtor's request to file an explanation of the facts that gave rise to this case under seal, this Court requests that the U.S. Trustee state whether it would oppose such request and whether a written motion should be required.

In addition, the debtor should address what is meant by stating, with respect to possible sale procedures (dkt. 47, p.5:25-27), "This depends on how Court views New Orleans property."

(b) Employment of a real estate professional. When does this debtor anticipate filing a motion to employ a real estate professional to sell the one New Orleans property that he contemplates selling?

(c) Cash collateral. This Court has issued a separate tentative ruling addressing the debtor's proposed use of cash collateral (see calendar number 2, 4/12/16 at 1:00 p.m.).

(d) Monthly Operating Report ("MOR") (dkt. 53). The debtor refers to a postpetition settlement. Will that need to be subject to a motion under Rule 9019?

(e) Business income and expenses. The debtor's amended bankruptcy Schedules I&J (dkt. 45) fail to provide a breakdown of gross income, expenses, and net income for his business despite the instructions to do so on line 8a of Schedule I. The tentative ruling is to set a deadline of 4/19/16 to file an amended Schedule I that provides a detailed breakdown.

(2) Deadlines/dates. This case was filed on 2/17/16.

(a) Bar date: 6/30/16 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement*: file by 9/5/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 4/26/16 at 2:00 p.m. (to be heard concurrently with the AOK Brothers, LLC motion to dismiss). No

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written status report is required.

*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Party Information

Debtor(s):

Michael R Totaro

Pro Se

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2:13-26483 Saeed Cohen

Chapter 11

Adv#: 2:15-01330 Official Committee of Creditors Holding Unsecured v. Cohen

#3.00 Cont'd status conference re: Complaint for recovery of fraudulent conveyances pursuant to Cal.Civ.Code sections 3439, 11 U.S.C. sections 544, 548, 550, and for setoff pursuant to 11 U.S.C. section 553 fr. 01/05/16, 2/23/16, 03/22/16, 4/5/16, 4/12/16, 5/16/16 6/7/16, 8/9/16

Docket 1

Tentative Ruling:

Tentative Ruling for 9/6/16:

Continue all matters in this adversary proceeding to the same time as the next status conference in the main case (see Tentative Ruling, calendar no. 7 on 9/6/16 at 2:00 p.m.). Appearances are not required on 9/6/16.

Revised Tentative Ruling for 8/9/16:

Continue all matters in this case to 9/6/16 at 2:00 p.m. (see Order, case dkt. 1340, para. 4). Appearances are not required on 8/9/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 8/9/16:

Please see the tentative ruling for calendar no. 3.1 (8/9/16 at 2:00 p.m.).

Tentative Ruling for 6/7/16:

Please see the tentative ruling for calendar no. 6 (6/7/16 at 2:00 p.m.).

Tentative Ruling for 5/16/16:

Please see the tentative ruling for calendar no. 10 (5/16/16 at 10:00 a.m.).

Tentative Ruling for 1/5/16:

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Continue to 2/23/16 at 11:00 a.m. to address the following issues.
Appearances are not required on 1/5/16.

Reasons: This court understands that this adversary proceeding will likely be resolved when/if the debtor's confirmed chapter 11 plan becomes effective. Rather than setting deadlines at this time that will likely be vacated, this court continues this matter to the above-referenced date and time, to be heard concurrently with the other, related adversary proceedings.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Saeed Cohen

Represented By
Ron Bender
Krikor J Meshefejian
Kurt Ramlo
Beth Ann R Young

Defendant(s):

Fariba Cohen

Pro Se

Plaintiff(s):

Official Committee of Creditors

Represented By
Christopher Celentino

U.S. Trustee(s):

United States Trustee (LA)

Pro Se

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Adv#: 2:15-01331 Official Committee of Creditors Holding Unsecured v. Mayer Hoffmann

#4.00 Cont'd Status Conference re: Complaint for recovery of fraudulent conveyances pursuant to Cal.Civ.Code sections 3439, 11 U.S.C. sections 544, 548, 550, and for setoff pursuant to 11 U.S.C. section 553 fr. 1/5/16, 02/23/16, 2/23/16, 03/22/16, 4/5/16, 4/12/16, 5/16/16, 7/19/16, 8/9/16

Docket 1

Tentative Ruling:

Tentative Ruling for 9/6/16:

Continue all matters in this adversary proceeding to the same time as the next status conference in the main case (see Tentative Ruling, calendar no. 7 on 9/6/16 at 2:00 p.m.). Appearances are not required on 9/6/16.

Revised Tentative Ruling for 8/9/16:

Continue all matters in this case to 9/6/16 at 2:00 p.m. (see Order, case dkt. 1340, para. 4). Appearances are not required on 8/9/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 8/9/16:

Please see the tentative ruling for calendar no. 3.1 (8/9/16 at 2:00 p.m.).

Tentative Ruling for 5/16/16:

Please see the tentative ruling for calendar no. 10 (5/16/16 at 10:00 a.m.).

Party Information

Debtor(s):

Saeed Cohen

Represented By
Ron Bender
Krikor J Meshefejian

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Kurt Ramlo
Beth Ann R Young

Defendant(s):

Mayer Hoffmann McCann P.C. Pro Se

Plaintiff(s):

Official Committee of Creditors Represented By
Christopher Celentino

U.S. Trustee(s):

United States Trustee (LA) Pro Se

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2:13-26483 Saeed Cohen

Chapter 11

Adv#: 2:15-01334 Official Committee of Creditors Holding Unsecured v. Brager Tax Law

#5.00 Cont'd Status Conference re: Complaint for recovery of fraudulent conveyances pursuant to Cal.Civ.Code sections 3439, 11 U.S.C. sections 544, 548, 550, and for setoff pursuant to 11 U.S.C. section 553 fr. 01/05/16, 02/23/16, 03/22/16, 4/5/16, 4/12/16, 5/16/16, 7/19/16, 8/9/16

Docket 1

Tentative Ruling:

Tentative Ruling for 9/6/16:

Continue all matters in this adversary proceeding to the same time as the next status conference in the main case (see Tentative Ruling, calendar no. 7 on 9/6/16 at 2:00 p.m.). Appearances are not required on 9/6/16.

Revised Tentative Ruling for 8/9/16:

Continue all matters in this case to 9/6/16 at 2:00 p.m. (see Order, case dkt. 1340, para. 4). Appearances are not required on 8/9/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 8/9/16:

Please see the tentative ruling for calendar no. 3.1 (8/9/16 at 2:00 p.m.).

Tentative Ruling for 5/16/16:

Please see the tentative ruling for calendar no. 10 (5/16/16 at 10:00 a.m.).

Party Information

Debtor(s):

Saeed Cohen

Represented By
Ron Bender
Krikor J Meshefejian

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Chapter 11

Kurt Ramlo
Beth Ann R Young

Defendant(s):

Dennis N. Brager, a Professional Pro Se
Brager Tax Law Group, a Pro Se

Plaintiff(s):

Official Committee of Creditors Represented By
Christopher Celentino

U.S. Trustee(s):

United States Trustee (LA) Pro Se

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#6.00 Hrg re: Motion for Order Approving Settlement Agreement Between by and Between Debtor and the Estate; the Official Committee of Creditors Holding Unsecured Claims Appointed in the Case; Fred Farid Cohen, as Trustee of The Cohen 2007 Irrevocable Trust; and Vernon RBL PropertyLLC

Docket 1344

Tentative Ruling:

Grant. Appearances are not required.

Proposed order: Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Saeed Cohen

Represented By
Ron Bender
Ron Bender
Krikor J Meshefejian
Krikor J Meshefejian
Kurt Ramlo
Kurt Ramlo
Beth Ann R Young
Beth Ann R Young

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#7.00 Cont'd status conference re: Post confirmation
fr. 07-30-13, 09-03-13, 10-01-13, 10-08-13,
12-10-13, 12-17-13, 1-7-14, 02-11-14, 2-18-14,
3-18-14, 5-14-14, 6-25-14, 7/1/14, 7/10/14,
7/24/14, 7/29/14, 7/31/14, 08/19/14, 8/25/14,
9/16/14, 10/21/14, 11/13/14, 11/18/14, 12/16/14,
1/13/15, 1/16/15, 1/22/15, 1/30/15, 2/3/15, 3/11/15,
3/16/15, 3/31/15, 4/6/15, 4/28/15, 5/12/15, 5/26/15,
7/10/15, 7/16/15, 7/20/15, 8/27/15, 9/22/15, 9/28/15,
10/13/15, 11/17/15, 12/8/15, 12/15/15, 12/28/15,
1/19/16, 2/2/16, 03/22/16, 4/5/16, 4/12/16, 5/16/16
6/7/16, 6/21/16, 7/19/16, 8/2/16, 8/9/16

Docket 1

Tentative Ruling:

Tentative Ruling for 9/6/16:

Continue to 10/11/16 at 2:00 p.m. No appearances are required on 9/6/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 8/9/16:

Continue all matters in this case to 9/6/16 at 2:00 p.m. (see Order, case dkt. 1340, para. 4). Appearances are not required on 8/9/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 8/2/16:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

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On 7/19/16, this Court continued this status conference to this date and time to give Ms. Cohen's new counsel, and any other party in interest, an opportunity to raise any appropriate issues. There is no tentative ruling, but parties should be prepared to address the status of this case.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Supplemental Tentative Ruling for 7/19/16:

In addition to the tentative rulings set forth below, the tentative ruling in view of the joint status report of the debtor and the Committee (dkt. 1319, p.4:6-10) is to continue the hearing on the motion to appoint an elisor (dkt. 1189) to October 25, 2016 at 2:00 p.m. This Court also will address with the parties the procedures for making payments to the Clerk of the Court, as outlined in that status report (dkt. 1319, p.5:8-14).

Tentative Ruling for 7/19/16:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Calendar number 8: Status of Ms. Cohen's compliance with this Court's order directing her to sign the required plan documents. Has Ms. Cohen signed the required documents? If not, sanctions are accruing (see memorandum decision, 2:13-bk-26483-NB, dkt. 1302; order, 2:14-ap-01046-NB, adv. dkt. 91).

(b) Calendar number 9: Status of the bankruptcy case. On 6/29/16, this Court issued four orders all related to sanctions and attempting to allow this case to move forward. How do the parties intend to proceed at this time?

(2) Deadlines/dates. Continued status conference: 9/6/16 at 2:00 p.m. No written status report is required.

If you do not appear, and the matter is not adequately resolved by consent,

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then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Revised Tentative Ruling for 6/21/16:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

Proposed orders: Committee counsel is directed to serve and lodge proposed orders reflecting this Court's rulings on each of the pending matters via LOU within 7 days after the hearing date, as discussed at the status conference on 6/7/16.

(1) Current issues

(a) Calendar no. 7: Motion to Compel Ms. Cohen to Sign Plan Documents, etc. (dkt. 1189). On 5/16/16 this Court issued an order (dkt. 1292) granting the motion and setting a deadline of 6/13/16 for Ms. Cohen to sign all of the plan documents and 6/15/16 for the parties to file written reports on whether she has complied. On 6/9/16 this Court issued a memorandum decision (dkt. 1302) setting forth coercive contempt sanctions that this Court intends to impose if Ms. Cohen has not complied by this deadline.

The debtor (dkt. 1305) reported non-compliance. Ms. Cohen (dkt. 1306, and errata at dkt. 1307) asserts through counsel that she has executed some documents, not signed other documents that she seeks to have amended, and refused to sign certain additional documents as to which she allegedly planned to submit her own, separate statement (see dkt. 1306, p. 4, para. 5). No such statement appears on the docket as of the time this tentative ruling has been prepared and, in any event, the time for any response has expired. Ms. Cohen also did not address the schedule of coercive contempt sanctions that this Court intends to impose.

The tentative rulings are as follows:

(i) Reject Proposed changes to Mutual and General Release. The revision suggested by Ms. Cohen does not appear appropriate (see dkt. 1306, p. 3, para. 4.b.). The parties -- at the time both represented by bankruptcy counsel -- agreed to the terms of this provision. To now add the suggested caveat would be an improper effort to possibly modify her rights.

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Ms. Cohen's rights under that provision are as agreed to, and she is free to argue as she sees appropriate on appeal.

(ii) Permit oral responses regarding proposed changes to letter to Blue Cross and judgment of dissolution of marriage. What is the position of the debtor and the Committee regarding these proposed revisions (see dkt. 1306, pp. 2-4, para. 4.a.&c.)? What is Ms. Cohen's justification for not proposing these changes sooner (during the many months since confirmation), or for being permitted to raise them now, after prior hearings at which this Court heard arguments regarding the forms of documents? In addition, regarding Ms. Cohen's assertion about child support - that it would be higher under the Statewide Uniform Guideline than the stipulated amount (and not the other way around) - how can Ms. Cohen assert these things now when they were addressed at prior hearings and resolved against her, and alternatively where is her calculation under the Statewide Uniform Guideline showing any *good faith* basis to make this assertion?

(iii) Overrule any other objections as unsupported and untimely.

(b) Calendar nos. 8 & 9: Sanctions motion and reasonableness of fees (see *Cohen v. Cohen*, 2:16-ap-01046-NB, adv. dkt. 70, 72). This Court previously issued a decision (dkt. 37) that Ms. Cohen's complaint for revocation of confirmation will be dismissed without leave to amend. This Court also issued a decision (dkt. 65) to grant the debtor's motion (dkt. 17) seeking sanctions against Ms. Cohen in a dollar amount not less than fees incurred by (i) the debtor's bankruptcy counsel, (ii) the debtor's divorce counsel, and (iii) counsel for the Committee. The current hearing was set so as to address the reasonableness of the fees, and how they will be paid.

This Court has reviewed Ms. Cohen's opposition (adv. dkt. 70, 72), the debtor's reply (adv. dkt. 74, 75), and Mr. Shenson's response (adv. dkt. 76). Ms. Cohen's arguments fall broadly into three categories: (i) that fees related to prosecuting the sanctions motion are not recoverable as a matter of law, because of limitations to this Court's ability to award sanctions under its inherent powers (adv. dkt. 70, p. 4:8-15); (ii) that the sanction is not reasonable or are not recoverable as a matter of law because Ms. Cohen allegedly does not have the ability to pay the sanctions award (adv. dkt. 70, p. 4:21-23); and (iii) that the fees incurred do not relate to or are not sufficiently related to the sanctionable conduct to be properly included (adv. dkt. 70, p. 4:16-20). Each of these issues will be addressed in turn.

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(i) Fees related to prosecuting the sanctions motion are recoverable in this instance. Ms. Cohen cites *In re Southern California Sunbelt Division, Inc.*, 608 F.3d 456, 466-67 (9th Cir. 2010), and *Lockary v. Kayfetz*, 974 F.2d 1166 (9th Cir.1992), for the proposition it is improper to include the costs of litigation of the sanctions motion when a bankruptcy court issues sanctions under its inherent powers.

Relying on *Margolis v. Ryan*, 140 F.3d 850 (9th Cir.1998), the debtor contends (at some length) that *Lockary* is no longer good law because it relied on an old version of Federal Rule of Civil Procedure 11. The debtor extrapolates that because *Lockary* is no longer good law (see *Margolis*, 140 F.3d 850, 854 ("The rule in *Lockary*, enunciated in 1992, is no longer good law."), and because *Sunbelt* relied on *Lockary*, *Sunbelt* should be read as a non-binding outlier and held to its facts. This is not correct and in a footnote *Sunbelt* directly addressed and rejected this contention with respect to sanctions under this Court's inherent powers. See *In re S. California Sunbelt Developers, Inc.*, 608 F.3d 456, 467 n. 6 ("We reject appellees' contention that *Lockary* has been overruled by *Margolis v. Ryan*, 140 F.3d 850 (9th Cir.1998), with respect to sanctions imposed under the court's inherent power."). This Court is bound to follow *Sunbelt*, which means that in general it is not possible under this Court's inherent powers to award fees for prosecuting a sanctions motion.

Nevertheless, "a common-law exception to [this] rule permits fee awards in litigation brought to remedy willful violations of court orders." *In re Schwartz-Tallard*, 803 F.3d 1095, 1098 (9th Cir. 2015) (citation omitted). That exception applies because, as this Court previously has ruled, Ms. Cohen's conduct constitutes a willful violation of the order that approve the parties' settlement that was embodied in the chapter 11 plan:

On July 31, 2015, this Court entered its order confirming the Plan ("Plan Confirmation Order") (case dkt. 1110). That order bound the parties to their settlement in Option One. For nearly half a year Ms. Cohen focused on implementation of the confirmed Plan, asserting various alleged concerns about such issues as the wording of the documents to be filed with the divorce court. Then she changed her tactics [and filed her frivolous adversary proceeding under 11 U.S.C. 1144]. [Adv. dkt. 37, pp. 3:27-4:3, emphasis added].

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Because Ms. Cohen's conduct constituted a willful violation of this Court's Plan Confirmation Order, her conduct falls within the common-law exception to so-called 'fees on fees,' and it is reasonable and permissible under this Court's inherent authority to award fees for prosecuting the sanctions motion (and related hearings).

(ii) Ms. Cohen's ability to pay does not justify a reduction in the sanction. In determining a reasonable sanction award, Ms. Cohen contends that this Court must consider her ability to pay (see *Matter of Yagman*, 796 F.2d 1165, 1185 (9th Cir.), *opinion amended on denial of reh'g sub nom. In re Yagman*, 803 F.2d 1085 (9th Cir. 1986)), in addition to a number of other factors. This argument is not persuasive for several reasons:

First, Ms. Cohen has not cited authority that this Court must consider ability to pay when awarding *compensatory sanctions* and not *coercive or punitive sanctions*.

Second, alternatively, Ms. Cohen's alleged inability to pay immediately does not render an award *per se* unreasonable. This Court agrees with the debtor that to allow Ms. Cohen to not pay anything would allow her to continue to engage in tactics and delay while leaving this Court largely powerless to control her willful violation of Court orders. Additionally, this Court agrees with the debtor that merely because a sanctions award might force an offending party into bankruptcy, this is also not sufficient to justify denying a sanctions award. See *Persyn v. United States*, 36 Fed. Cl. 708, 719 (1996), *aff'd in part, rev'd in part on other grounds*, 135 F.3d 773 (Fed. Cir. 1997) ("Even where an offending party presents the court with affidavits relating to ability to pay, courts have held consistently that mere assertion that an award would force the offending party into bankruptcy is insufficient to show inability to pay.").

Third, "the sanctioned party has the burden to produce evidence of inability to pay." *Gaskell v. Weir*, 10 F.3d 626, 629 (9th Cir. 1993). Ms. Cohen has provided no evidence of her ability to pay, and in fact she has entirely omitted significant income that will be generated from Elco Lighting (see adv. dkt. 74, p. 8:13-19).

Fourth, this Court cannot entirely determine Ms. Cohen's ability to pay based on the partial disclosures made. For example, she fails to disclose that (if she complies with her obligations so that the confirmed plan becomes effective) she will be receiving substantial additional income.

Fifth, this Court has already found that Ms. Cohen committed perjury

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and, accordingly, this Court does not start with a presumption that anything she alleges is necessarily accurate - she will have to establish that it is.

This Court has provided Ms. Cohen the opportunity to present plan for repayment over a period of time, or other proposal for repayment. She has made no proposal.

Ms. Cohen should be prepared to address why this Court should not simply award the entire amount of fees, payable immediately, rather than permit her belatedly to propose a repayment plan. Alternatively, if this Court is persuaded to permit her to pay over time, she can address why this Court should not order payments on the schedule proposed by the debtor (see reply, adv. dkt. 74, pp. 8-9), and the debtor should be prepared to address the issues raised in Mr. Shenson's response (adv. dkt. 76). If Ms. Cohen is not able to propose a reasonable or feasible payment plan for the sanctions and her own attorneys' fees, perhaps Ms. Cohen will have to file her own bankruptcy.

(iii) Ms. Cohen's objections to certain line items. Ms. Cohen's counsel provides a line-by-line objection to certain fees.

(1) Objection to fees based on sanctions. With regard to Ms. Cohen's objections to fees incurred related to the sanctions motion, as set forth above, these objections are overruled.

(2) Objections to fees of debtor's bankruptcy counsel. This Court sustains the objection to the extent that they charged for an email exchange relating to the Namvar settlement (\$51.10).

The other objections are overruled.

Allowed fees: \$135,170.00 (requested) - \$51.10 = \$132,119.90.

(3) Objections to fees of debtor's family law counsel. With regard to Ms. Cohen's objections to the fees of the debtor's family law counsel (adv. dkt. 70, pp. 8:15-9:21), this Court disagrees that there is no evidence that the billing relates to the motion to dismiss (or the sanctions motion). Ms. Mendell, debtor's family law counsel, includes an unobjected-to declaration that the fees were incurred related to the motion to dismiss and/or sanctions motion (see adv. dkt. 49, p. 2, para. 3). To this extent, the objection is overruled.

This Court overrules Ms. Cohen's objection to Ms. Mendell's appearance at multiple hearings because directly at issue was what was disclosed in the divorce proceeding. In order for the debtor to properly defend against Ms. Cohen's frivolous complaint, it was reasonable to have his

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family law counsel present.

Ms. Cohen objects to certain fees because they are redacted. Ms. Mendell submitted a declaration in response attesting that the redacted fees were not included in the requested amount (adv. dkt. 75, p. 2, para. 5). Accordingly, this objection, too, is overruled.

Allowed fees: \$12,815.25 (requested amount).

(4) Objection to fees incurred by the Committee's counsel. To the extent that Ms. Cohen objects to the Committee performing asset analysis, this objection is overruled. The Committee would not have had to incur these fees had Ms. Cohen not brought the frivolous complaint.

Similarly, to the extent that Ms. Cohen objects to the Committee's review of issues related to the other adversary proceedings and other motions, these objections are overruled. If Ms. Cohen had not commenced this frivolous adversary proceeding, these additional continuances, and related fees, would not have been incurred.

None of the other objections are well taken.

Allowed fees: \$118,172.00 (requested amount).

(c) Calendar no. 10: Rescission action (2:16-ap-01226-NB). This Court has issued a memorandum decision stating that this adversary proceeding will be dismissed (adv. dkt. 8).

(d) Orders on all matters. This Court intends to issue orders on each of these matters shortly after the hearing.

(2) Deadlines/dates. Continued status conference: 7/19/16 at 2:00 p.m. No written status report is required.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/21/16:

This court anticipates posting a tentative ruling at a later time.

Revised Tentative Ruling for 6/7/16:

Appearances required by counsel for the debtor but telephonic appearances

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are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Calendar no. 2: Rescission action (2:16-ap-01226-NB). Ms. Cohen does not dispute that this Court can dismiss this action, provided that she can appeal this Court's dismissal order (see 2:16-ap-01226-NB, dkt. 3, p. 2). Accordingly, it appears to dismiss this action for the same reasons set forth in this Court's memorandum decision in the section 1144 adversary proceeding (2:16-ap-01046-NB, dkt. 37). This Court anticipates issuing a dismissal order contemporaneous with the dismissal order in the section 1144 adversary proceeding.

(b) Calendar no. 3: Fraudulent transfer action against Ms. Cohen (2:15-ap-01330-NB). Continue to trail this status conference.

(c) Calendar nos. 4 & 5: Motion for sanctions (dkt. 17)/status conference (2:16-ap-01046-NB).

(i) Memorandum decision on sanctions motion. For the reasons set forth in this Court's issued memorandum of decision, the motion for sanctions is granted in part and denied in part.

(ii) Additional sanctions to coerce Ms. Cohen to sign the Plan documents. Pursuant to its schedule set forth in the tentative ruling from 5/16/16, Ms. Cohen must comply with its order to sign plan documents by 6/13/16. The debtor suggests that an appropriate coercive sanction is \$500 per day (seedkt. 47, p. 2:6-28). In the event that Ms. Cohen does not comply with the order to sign the plan documents by this deadline, this Court's tentative ruling is to impose the following coercive sanctions:

(1) From 6/13/16 to 7/5/16: No monetary sanction. Although not encouraged, this time period is intended to allow Ms. Cohen to seek emergency appellate review if she chooses.

(2) From 7/6/16 to 7/13/16: \$100 per day for Ms. Cohen's non-compliance.

(3) From 7/14/16 to 7/20/16: \$200 per day for Ms. Cohen's non-compliance.

(4) From 7/21/16 to 7/27/16: \$350 per day for Ms. Cohen's non-compliance.

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(5) From 7/28/16 until compliance: \$500 per day for Ms. Cohen's non-compliance.

As previously outlined, such sanctions would be deducted from the distributions that the debtor otherwise would make to Ms. Cohen. All of the foregoing may be subject to adjustment by this Court (either on its own motion or on an appropriate motion of any party in interest), but this Court is strongly disinclined to make any adjustments. The parties have had ample opportunity for briefing, and this Court is not inclined to revisit these dollar amounts. Of course, Ms. Cohen can avoid any of these sanctions by timely compliance with this Court's order.

(2) Deadlines/dates. Continued status conference: 6/21/16 at 2:00 p.m. No written status report is required.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 6/7/16:

This court anticipates posting a tentative ruling at a later time.

Tentative Ruling for 5/16/16:

Appearances required.

(1) Calendar no.2: Motion to dismiss action to revoke confirmation (*Cohen v. Cohen*, 2:16-ap-01046-NB, adv. dkt. 11). Grant, for the reasons set forth in this Court's memorandum decision being issued forthwith.

(2) Calendar no. 1: Motion for sanctions against Ms. Fariba Cohen (*Cohen v. Cohen*, 2:16-ap-01046-NB, adv. dkt. 17). It appears that there may be cause to impose sanctions, for the same reasons set forth in this Court's memorandum decision dismissing with prejudice Ms. Cohen's motion to revoke confirmation (*Cohen v. Cohen*, 2:16-ap-01046-NB), and because there appears to be sufficient facts for an explicit finding, based on clear and convincing evidence, that Ms. Cohen's arguments have been made in bad faith, vexatiously, wantonly, and for oppressive reasons including attempting without any valid basis to coerce, through actual and threatened litigation

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costs and delays, a more favorable treatment than what she previously agreed to as embodied in the confirmed chapter 11 plan. See *In re Dyer*, 322 F.3d 1178, 1196 (9th Cir. 2003) ("[B]ankruptcy courts, like district courts, also possess [the] inherent power" to sanction "bad faith" or "willful misconduct" because "the very creation of the court" establishes such inherent power "unless Congress intentionally restricts those powers," and Congress' intent is confirmed by § 105(a)) (citations omitted); *In re Lehtinen*, 564 F.3d 1052, 1058 (9th Cir. 2009) ("Before imposing sanctions under its inherent sanctioning authority, a court must make an explicit finding of bad faith or willful misconduct.") (quoting *In re Dyer*, 322 F.3d 1178, 1196 (9th Cir. 2003)); *In re Deville*, 361 F.3d 539 (9th Cir. 2004) (quoting *Chambers v. NASCO, Inc.*, 501 U.S. 32, 51, 111 S.Ct. 2123 (1991)) ("To impose inherent power sanctions, a court must find that a party acted 'in bad faith, vexatiously, wantonly, or for oppressive reasons.'").

Nevertheless, the tentative ruling is to continue this matter to the date of the continued status conference, to provide the parties with an opportunity to meet and confer on these issues, and for further analysis by this Court.

(3) Calendar no. 3: Status conference in adversary proceeding to revoke confirmation (*Cohen v. Cohen*, 2:16-ap-01046-NB). The tentative ruling is to defer issuing any written orders on the foregoing matters until the continued status conference, and then issue them with a stay of an additional three weeks, to provide an opportunity for Ms. Fariba Cohen to seek appellate review if she so chooses. The parties should be prepared to address whether there are any other procedural or substantive matters that this Court should address in connection with this adversary proceeding.

(4) Calendar no. 10 (main case status conference). The parties should be prepared to address whether this Court should dismiss *sua sponte* Ms. Fariba Cohen's new action for rescission (2:16-ap-01226-NB, filed 5/12/16), for the same reasons set forth in this Court's memorandum decision dismissing with prejudice Ms. Cohen's motion to revoke confirmation (*Cohen v. Cohen*, 2:16-ap-01046-NB).

In addition the tentative ruling is to continue the main case status conference to 6/7/16 at 2:00 p.m.. No written status report is required, but such a report is invited if it would be helpful.

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(5) Calendar no. 8: Motion to compel Ms. Fariba Cohen to sign documents (dkt. 1189). Grant, for the same reasons set forth in this Court's memorandum decision dismissing with prejudice Ms. Cohen's motion to revoke confirmation (*Cohen v. Cohen*, 2:16-ap-01046-NB), and for the additional reasons set forth in this Court's Amended Tentative Rulings on the motion (case dkt. 1219), and in the pleadings of the Committee and the Debtor.

Specifically, the tentative ruling is as follows. Direct Ms. Cohen to execute the requisite documents and otherwise fully perform her obligations under the confirmed plan no later than 6/13/16. Set a deadline of 6/15/16 for briefs and declarations from all parties detailing whether Ms. Cohen has in fact performed. Set a continued hearing for 6/21/16 at 2:00 p.m. to determine whether she has adequately demonstrated her performance and, if not, whether she is in civil contempt of court, and what would be an appropriate daily or weekly dollar amount of sanctions until she does comply, in fixed or increasing dollar amounts (subject to adjustment after any discovery regarding her finances), as well as what other sanctions or remedies might be appropriate and effective, such as an order appointing an elisor.

The tentative ruling is that the form of documents proposed by the Committee (case dkt. 1222) need only be revised to reflect the following:

(a) Family law counsel. In Recital M, Ms. Fariba Cohen's representation by family law counsel, and/or current pro se status, should be brought up to date (*id.* Ex. A, Recital M, at p.4:14-23). Likewise, the signature blocks should be brought up to date.

(b) Voluntariness. It appears appropriate to revise Recital O (*id.*, Ex. A, Recital O, at pp. 4:26-5:3) (if Ms. Fariba Cohen desires to do so) to reflect that, although she voluntarily agree to enter into a stipulated judgment on the terms set forth therein, she subsequently asserted that Mr. Cohen had hidden assets and engaged in other wrongdoing of which she asserts that she was not previously aware, but, in view of (i) Mr. Cohen's prior disclosures on the record in this Court and in other proceeding, and (ii) in view of the terms of Ms. Fariba Cohen's settlement embodied within the confirmed plan, which provide for recovery and use of any undisclosed assets, this Bankruptcy Court was persuaded that her claims to be entitled to revoke the plan were not plausible on their face.

(5) Calendar no. 4: Committee's action against Ms. Fariba Cohen to avoid

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alleged fraudulent transfers and for setoff (2:15-ap-01330-NB). Continue so as to be contemporaneous with the continued status conference in the main case.

(6) Calendar no. 9: Motion for continued use of estate property (case dkt. 473, 552). Grant, subject to the prior conditions on such use of property (see, e.g., case dkt. 1268 (referring to Orders at case dkt. 110, 266, 315, 363, 552, 799, 954, and 1069) and IRS stipulation case dkt. 1272) and further subject to the issues reserved by the parties for possible settlement as noted in the Committee's further statement regarding reimbursement to the estate of funds lent to the children's trust (case dkt. 1268) (see case dkt. 1278, n. 4 ("Further, the Committee has been in active settlement discussions with the Children's Trust, which the Committee hopes will result in settlement.")).

(7) Calendar no. 11: Motion to approve stipulation re appointment of Ms. Sharon Weiss as Committee Representative (case dkt. 1277). Subject to any opposition and reply at the hearing (pursuant to this Court's order shortening time, case dkt. 1280, 1282, 1283), the tentative ruling is to grant the motion and overrule the limited objections of Ms. Fariba Cohen (case dkt. 1288).

(8) Calendar no. 7: Reimbursement dispute (see case dkt. 1122, 1268). Continue so as to be contemporaneous with the continued status conference in the main case. See case dkt. 1237, 1267.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 2/2/16:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Status report and effective date of the plan. The parties should be prepared to address the outstanding issues raised in the status report of the debtor and the committee, including the unsigned divorce documents (dkt. 1237, 1237). The debtor and the committee have stated (dkt. 1237, pp.5:21-

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6:2) that if Ms. Cohen seeks to revoke the confirmation order then they will make further suggestions how to proceed. What do they suggest, and what is Ms. Cohen's position on that issue?

(2) Adversary proceeding. This court notes that Fariba has filed an adversary complaint seeking revocation of the debtor's confirmed chapter 11 plan (dkt. 2:16-ap-01046-NB, adv. dkt. 1). This court does not view the mere filing of this adversary proceeding as staying the confirmed chapter 11 plan. What proceedings to the parties contemplate in connection with this adversary proceeding?

(3) Continued status conference: 2/23/16 at 2:00 p.m. No written status report is required.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 1/19/16:

Continue to 2/2/16 at 2:00 p.m. pursuant to the request of the debtor and the Committee (dkt. 1237, p.5). Appearances are not required on 1/19/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Tentative Ruling for 12/28/15:

Continue to 1/19/16 at 2:00 p.m. Appearances are not required on 12/28/15.

On 12/22/15, this court received calls from counsel for the debtor and counsel for the Committee informing it that the parties had agreed to continue this matter to allow themselves additional time to finalize their working settlement. Accordingly, this court continues this matter as set forth above.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

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Tentative Ruling for 12/8/15:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) The parties should be prepared to address the issues raised in this court's tentative ruling issued on 12/4/15 (dkt. 1215).

(2) Continued status conference: 1/19/16 at 2:00 p.m. No written status report is required.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 11/17/15:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Family law counsel. At the hearing on 10/13/15, Fariba requested a further continuance to permit her to retain family law counsel. This court understands, though an ex parte communication to chambers, that she may now have done so, and that one or more parties may be seeking a continuance of the Joint Motion of the debtor and Official Committee of Creditors ("Committee") to compel her signature, or for other relief (dkt. 1190), Fariba Cohen's opposition (dkt. 1192), and the debtor and Committee's replies (dkt. 1193 and 1194). The parties should be prepared to address whether those matters should be continued and, if so, for how long.

(b) Health insurance. Have the parties resolved the issues related to health insurance? Is the debtor covered?

(2) Continued status conference: 12/15/15 at 2:00 p.m. No written status report is required.

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Tentative Ruling for 10/13/15:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. This court has reviewed the debtor's second supplement to his second status report ("Second Supplement") (dkt. 1184).

(a) Tax stipulation. At the hearing on 9/28/15, the parties informed this court that each would sign the tax stipulation. Has this been resolved?

(b) Secondary Leighton Property. Also at the hearing on 9/28/15, this court heard a number of proposals regarding how to proceed with the Secondary Leighton Property. Based on the debtor's representations in the Second Supplement, the parties have agreed to a consensual resolution of the issues surrounding the Leighton properties. What delays, if any, do the parties anticipate in completing this arrangement?

(c) Family law counsel. The agreement resolving the issues related to the Secondary Leighton Property is apparently contingent on Ms. Cohen completing the divorce papers to the satisfaction of the debtor's family law counsel. In continuing this matter out some time, this court intended for Ms. Cohen to have the opportunity to retain family law counsel. Has this been accomplished? Are there any other updates regarding the status of the divorce.

(d) Health insurance. Has Ms. Cohen arranged for reinstatement of the health insurance of Mr. Cohen?

(2) Other matters.

(a) Notice. This court directed the debtor to provide notice, either formal or informal, to the IRS and the FTB of this continued hearing. Did this happen? Nothing on the docket reflects this notice.

(b) Merits. Being heard concurrently are status conferences in two related matters: Issues 3 and 4 (related to claims between Mr. and Mrs. Cohen) as set forth in the so-called Scheduling Order (dkt. 394) and the adversary proceeding *Cohen v. United States* (against the IRS), 2:14-ap-

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01609-NB. In addition, this Bankruptcy Court is in receipt of a minute order of District Court Judge S. James Otero dated October 5, 2015 vacating this court's order for a preliminary injunction and remanding, in another adversary proceeding (Adv. No. 2:14-ap-01484-NB) relating to adjustments of spousal support payments by the State courts.

All of these matters, including the support payment issues, appear to have been superseded by the parties' settlement, which was incorporated into the debtor's confirmed plan and the confirmation order, including stipulated support payment amounts and procedures. If the parties disagree, then they are directed to address that mootness issue at this status conference.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/28/15:

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see www.cacb.uscourts.gov, "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. At the 9/22/15 status conference, this court continued this matter and directed the parties to meet and confer as to the issues raised in the debtor's status report (dkt. 1156) and Ms. Cohen's reply (dkt. 1157, 1159), including, but not limited to, issues related the transfer of the so-called Secondary Leighton property, due on sale clauses, Fariba's ability and/or need to refinance, and other matters related to divorce documentation. The parties should be prepared to update this court on the status of these issues.

(2) Deadlines/dates. This case was filed on 6/25/13 and an order confirming the Fourth Amended Joint Plan of Reorganization Proposed by the Debtor and the Official Committee of Creditors Holding Unsecured Claims (dkt. 1110) was entered on 7/31/15.

(3) Continued status conference: 10/6/15 at 2:00 p.m. No written status report is required.

If you do not appear, and the matter is not adequately resolved by consent,

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then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Tentative Ruling for 9/22/15:

[No tentative ruling was posted for this status conference.]

Tentative Ruling for 8/27/15:

Continue to 9/22/15 at 1:00 p.m. as suggested in the debtor's first post-confirmation status report (dkt. 1120) unless any party in interest wishes to be heard on 8/27/15 and follows the usual procedures to contest this tentative ruling (notifying other parties and the court). Appearances are not required on 8/27/15.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at www.cacb.uscourts.gov) then search for "tentative rulings".

Party Information

Debtor(s):

Saeed Cohen

Represented By

Ron Bender

Krikor J Meshefejian

Kurt Ramlo

Beth Ann R Young